# THE ARRAIGNMENT, TRYAL, AND CONDEMNATION, OF Sir *JOHN FRIEND*, Knight, FOR High Treason.

In Endeavouring to procure FORCES from *France* to Invade this Kingdom, and Conſpiring to Levy WAR in this Realm for Aſſiſting and Abetting the ſaid *Invaſion*, in order to the Depoſing of His Sacred Majeſty King *William*, and reſtoring the late King.

*At the* Seſſions-houſe *in the* Old-Bayly, *on Monday* March 23. 169⅝.

*And Peruſed by the Lord Chief Juſtice* Holt, *and the King's Council, who were preſent at the Tryal.*

*LONDON*,

Printed for *Samuel Heyrick*, at *Grays-Inn-Gate* in *Holborn*; and *Iſaac Cleve*, at *Serjeants Inn-Gate* in *Chancery-Lane*. 1696.

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*At the Sessions-house in the Old-Bayly, on Monday March 23. 1696.*

*And Perused by the Lord Chief Justice Holt, and the King's Council, who were present at the Tryal.*

LONDON,

Printed for Samuel Heyrick, at Gray's-Inn-Gate in Holborn; and Tom Clever, at Serjeants Inn-Gate in Chancery-Lane, 1696.

# *Die Lunæ Viceſimo tertio Martis* 1695. *Anno Regni Regis* Gulielmi *Tertii Octavo.*

*At the Seſſions-Houſe in the* Old-Baily, *this Day came on the Trial of Sir* JOHN FREIND, *Knight, for High-Treaſon, in Compaſſing and Imagining the Death and Deſtruction of His preſent Majeſty King* William, *upon an Indictment found by the Grand-Jury for the City of* London, *upon the Seſſions of* Oyer *and* Terminer *and Gaol-Delivery of* Newgate, *on* Saturday *the 21ſt. Inſtant.*

*Cl. of Arr.* CRyer, make Proclamation.

*Cryer.* Oyez, thrice. All manner of Perſons that have any thing more to do at this General Seſſions of the Peace, Seſſions of *Oyer* and *Terminer*, holden for the City of *London*, and Goal-delivery of *Newgate*, holden for the City of *London*, and County of *Middleſex*, Adjourned over to this day; Draw near, and give your attendance, for now they will proceed to the Pleas of the Crown for the ſaid City, and County; and God ſave King *William.*

*Cl. of Arr.* Make proclamation again.

*Cryer.* Oyez. You good men of the City of *London* ſummoned to appear here this day, to try between our Sovereign Lord the King, and the Priſoner that is to be at the Bar; anſwer to your names as you ſhall be called every man at the firſt Call, upon pain and peril that will fall thereon.

Then the Petty Jury were all called over, and the Appearances of thoſe that anſwered to the Call, were recorded.

About Ten a Clock the Lord Chief Juſtice *Holt*, the Lord Chief Juſtice *Treby*, Mr. Juſtice *Nevill*, and Mr. Juſtice *Rokeby*, came into the Court; and there being a great confluence of the Nobility and Gentry there preſent, the Priſoner was ordered to be brought to the Bar; which was done accordingly.

*Cl of Arr.* Sir *John Freind.* Hold up thy Hand.

*Freind.* My Lord, I humbly move that I may have one *William Courtney* (who is to be a principal Witneſs for me at my Trial, and is now a Priſoner in the *Gatehouſe*) ſent for.

*L. C. Juſt. Holt.* Is he your Witneſs, Sir *John?*

*Freind.* Yes, my Lord, *William Courtney* is his name.

*L. C. Juſt. Holt.* Sir *John*, why did not you ſend, and deſire this before?

*Freind.* My Lord, I did not hear of him while laſt night; and I humbly beſeech your Lordſhip, that you will pleaſe to let him be ſent for.

The Judges conſulted among themſelves.

*L. C. Juſt. Holt.* Look ye, Sir *John Freind*, I'll tell you, If you'll appoint your Agent to come hither, you ſhall have an *Habeas Corpus ad teſtificandum*: But indeed you might have ſent this morning, and then the Writ might have been got ready.

*Freind.* My Lord, I did not know ſo much; for it was laſt night before I underſtood that he was to be a Witneſs.

*L. C. Juſt. Holt.* You might have ſent laſt night, or this morning, and you ſhould have had a Warrant for the Writ.

*Freind.* I aſſure your Lordſhip, I did not know ſo much.

*L. C. Juſt. Holt.* Well, Send your Agent, or your Sollicitor, and you ſhall have a Warrant for the Writ.

*Freind.* I beſeech your Lordſhip, that he may be ſent for, and that the meſſenger may make haſte.

*L. C. Juſt. Holt.* Let your Sollicitor come to my Clerk, and he ſhall have it.

*Freind.* My Lord, if you pleaſe to give a Rule of Court for it, I ſuppoſe it may be done preſently.

*L. C. Juſt. Holt.* No, no, Sir *John*, it muſt be by Writ, the Keeper of the *Gatehouſe* elſe can't bring him.

*Freind.* My Lord, that will be a long time before it can be done, I deſire nothing but that I may have him here to give his Evidence for me.

*L. C. Juſt. Holt.* It will be got ready preſently; I believe he will be here time enough for you to make uſe of his Teſtimony.

*Freind.* But, my Lord, ſuppoſe he ſhould not be here: It would be a great hindrance to me, and a greater injury in my Tryal.

*L. C. Juſt. Holt.* No, no, Sir *John*, you need not fear any thing of that nature, we are not in ſuch haſte; we will not ſpur you on: But the Warrant ſhall be made; and do you make what haſte you can to get the Writ, and your Witneſs brought.

The Lord Chief Juſtice gave order to Mr. *Maſon* his Clerk, to prepare a Warrant for an *Habeas Corpus*; directed for the Keeper of the *Gatehouſe*, to bring *William Courtney* immediately hither to give evidence.

*Cl. of Arr.* Sir *John Freind*, hold up thy hand, (which he did).

You ſtand Indicted in *London* by the name of Sir *John Freind*, late of *London*, Kt. for that, whereas there had been for a long time, and yet is, an open, and notoriouſly publick, and moſt ſharp, and cruel War by Land, and by Sea, had, carried on, and proſecuted by *Lewis* the *French* King, againſt the moſt Serene, moſt Illuſtrious, and moſt Excellent Prince, our Sovereign Lord *William* the Third, by the Grace of God, of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the Faith, *&c.* All which time the ſaid *Lewis* the *French* King, and his Subjects were, and yet are Enemies of our ſaid Lord the King, that now is, and his Subjects. You the ſaid Sir *John Freind*, a Subject of our ſaid Sovereign Lord the King, that now is, of this Kingdom of *England*, well knowing the Premiſes, not having the fear of God in your Heart, nor weighing the Duty of your Allegiance, but being moved and ſeduced by the Inſtigation of the Devil, as a falſe Traytor againſt the ſaid moſt Serene, moſt Clement, and moſt Excellent Prince, our ſaid Sovereign Lord *William* the Third, now King of *England*, *&c.* your Supreme, True, Natural, Rightful, Lawful, and Undoubted Sovereign Lord; the cordial Love, and the true, and due Obedience, Fidelity and Allegiance, which every Subject of our ſaid Sovereign Lord the King, that now is, towards him our ſaid Sovereign Lord the King, ſhould and of right ought to bear, withdrawing, and intending utterly to extinguiſh, and contriving, and with all your ſtrength, purpoſing, deſigning, and endeavouring the Government of this Kingdom of *England*, under our ſaid Sovereign Lord the King that now is of Right, duly, happily, and very well Eſtabliſhed, altogether to Subvert, Change, and Alter, and his Faithful Subjects, and the Freemen of this Kingdom of *England*, into intolerable, and moſt miſerable Slavery, to the aforeſaid *French* King, to Subdue, and bring, the firſt day of *July*, in the Seventh year of the Reign of our ſaid Sovereign Lord the King that now is; and divers other days and times, as well before as after, at *London*, in the Pariſh of St. *Peter Cornhill*, in the Ward of *Limeſtreet*, falſely, maliciouſly, deviliſhly, and traiterouſly, did compaſs, imagine, contrive, purpoſe, and intend, our ſaid Sovereign, the Lord the King that now is, then your Supreme, True, Natural, Rightful, and Lawful Sovereign Lord, of and from the Regal State, Title, Honour, Power, Crown, Command, and Government of this Kingdom of *England*, to Depoſe, caſt Down, and utterly to Deprive; and our ſaid Sovereign Lord the King to Death, and final Deſtruction to put, and bring, and the aforeſaid *Lewis* the *French* King, by his Armies, Soldiers, Legions, and Subjects, this Kingdom of *England* to Invade, Fight with, Overcome, and Subdue, to move, incite, procure, and help, and a miſerable ſlaughter among the Faithful Subjects of him, our ſaid Sovereign Lord the King throughout this whole Kingdom of *England*, to make and cauſe; and that you the ſaid Sir *John Friend* to the aforeſaid Enemies of our ſaid Lord the King, that now is, then, and there during the War aforeſaid, Traiterouſly were adhering and aſſiſting; and the ſame your moſt impious, wicked and deviliſh Treaſons, and traiterous compaſſings, intentions, and purpoſes aforeſaid, to fulfill, perfect, and bring to effect; and in proſecution, performance, and execution of that traiterous adheſion, you the ſaid Sir *John Freind*, as ſuch a falſe Traytor, during the War aforeſaid, to wit, the ſame firſt day of *July*, in the year aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, and divers other days and times, as well before as after, there and elſewhere in *London* aforeſaid, falſly, maliciouſly, adviſedly, ſecretly, and traiterouſly, and with Force and Arms, *&c.* with one *Robert Charnock* (late of High-Treaſon, in contriving, and conſpiring the Death of our ſaid Sovereign Lord the King, that now is, duly convicted and attainted) and with divers other

falſe

falſe Traytors, to the Jurors unknown, did meet, propoſe, treat, conſult, conſent, and agree, to procure from the aforeſaid *Lewis* the *French* King, of his Subjects, Forces, and Soldiers, then and yet Enemies of our ſaid Sovereign Lord the King that now is, great numbers of Soldiers and Armed men, this Kingdom of *England* to Invade and Fight with, and to levy, procure, and prepare great numbers of Armed men, and Troops and Legions againſt our ſaid Lord the King that now is, to riſe up and be formed, and with thoſe Enemies at and upon ſuch their Invaſion and Entry into this Kingdom of *England*, to join and unite, Rebellion and War againſt him our ſaid Lord the King, within this Kingdom of *England*, to make, levy, and wage, him our ſaid Lord the King ſo as aforeſaid to Depoſe, and him to Kill and Murder; and moreover with the ſaid falſe Traytors, the ſame firſt day of *July*, in the year aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, Traiterouſly you did conſult, conſent, and agree to ſend the aforeſaid *Robert Chernock* as a Meſſenger from you the ſaid Sir *John Friend*, and the ſame other Traytors unknown, unto and into the Kingdom of *France*, in parts beyond the Seas, unto *James* the Second, late King of *England*, to propoſe to him, and deſire of him to obtain of the aforeſaid *French* King, the Soldiers and Armed men aforeſaid, for the Invaſion aforeſaid to be made; and Intelligence and Notice of ſuch their Traiterous Intentions, and Adheſions, and all the Premiſes unto the ſaid late King *James* the Second, and the ſaid other Enemies and their Adherents, to give and exhibit; and them to inform of other particular things and circumſtances thereunto relating; as alſo Intelligence from them of the ſaid intended Invaſion, and other things and circumſtances concerning the Premiſes, to receive, and the ſame to you the ſaid Sir *John Freind*, and the ſaid other Traytors in this Kingdom of *England*, to ſignify, report, and declare, in Aſſiſtance, Animation, and Aid of the ſaid Enemies of our ſaid Lord the King that now is, in the War aforeſaid, and to incite and procure thoſe Enemies the more readily and boldly to Invade this Kingdom of *England*; and the Treaſons and Traytorous Contrivances, Compaſſings, Imaginations, and Purpoſes of you the ſaid Sir *John Freind* aforeſaid, to perfect and fulfil, and all the Premiſes the ſooner to execute, manage and perform, you the ſaid Sir *John Freind*, during the War aforeſaid, ſo as aforeſaid continued, *to wit*, the ſame firſt day of *July*, in the aboveſaid Seventh Year of the Reign of our ſaid Lord the King that now is, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, falſly and traiterouſly did procure and obtain to your ſelf, and did receive and accept of a certain Commiſſion or Writing, purporting it ſelf to be a Commiſſion, under and from the aforeſaid *James* the Second, late King of *England*, to conſtitute you the ſaid Sir *John Freind* to be a Collonel of Horſe in the Army by you and the other falſe Traytors againſt our ſaid Lord the King that now is, within this Kingdom of *England* to be levied and formed; and in purſuance of the ſaid pretended Commiſſion by you the ſaid Sir *John Freind* ſo obtained and accepted of, and your Treaſons and all your Traiterous Intentions aforeſaid, the ſooner to execute, perform, fulfil, and perfect, You the ſaid Sir *John Freind* afterwards, (to wit) the ſame Firſt Day of *July*, in the Seventh Year aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, Falſly, Malicioufly, Adviſedly, Secretly, and Traiterouſly, Divers Soldiers, and Armed Men, and ready to be Armed, with Force and Arms, *&c.* To Raiſe, and Liſt, and War and Rebellion againſt our ſaid Lord the King, within this Kingdom of *England* to make and wage; And to and with the ſaid Enemies of our ſaid Lord the King, Foreigners and Strangers, Subjects and Soldiers of the ſaid *Lewis* the *French* King, being about to invade this Kingdom of *England*, at and upon their Invaſion, and Entry into this ſame Kingdom, then ſhortly expected to be made, Themſelves together with You the ſaid Sir *John Freind* to join and unite, and in Troops and Legions to form, did Raiſe, Liſt, and Retain, and did procure to be Raiſed, Liſted, and Retained; And divers Sums of Money, in and about the Raiſing, Liſting, and Retaining of the aforeſaid Soldiers, and Men Armed, and ready to be Armed upon the Account aforeſaid, upon the aforeſaid Firſt Day of *July* in the Seventh Year aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, Falſly, Malicioufly, and Traiterouſly, Did give and pay, and cauſe to be paid; And thoſe Soldiers and Men, for the Treaſons, Intentions, and Purpoſes aforeſaid, then and there, and long after, you had in readineſs. As alſo the ſame Firſt Day of *July*, in the Seventh Year aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, Divers Horſes, and

very

very many Arms, Guns, Carbines, Piſtols, Swords, and other Weapons, Ammunition, and Warlike Things, and Military Inſtruments, Falſly, Maliciouſly, Secretly, and Traiterouſly You did Obtain, Buy, Gather, and Procure, and cauſe to be Bought, Gathered, Obtained, and Procured, and in Your Cuſtody had and detained, to that Intent to uſe the ſame in the ſaid Invaſion, War and Rebellion, againſt our ſaid Sovereign Lord the King that now is, Him our ſaid Lord the King of, and from the Regal State, Crown and Command of this Kingdom of *England* to Depoſe, Caſt Down, and Deprive, and Him to Kill and Murder, and all the Treaſons, Intentions, Contrivances and Purpoſes of You the ſaid Sir *John Freind*, as aforeſaid, to fulfil, perfect, and fully to bring to Effect; Againſt the Duty of Your Allegiance, and againſt the Peace of our ſaid Sovereign Lord the King that now is, His Crown and Dignity; As alſo againſt the Form of the Statute in this Caſe made and provided.

What ſay'ſt thou, Sir *John Freind*, Art thou Guilty of this High-Treaſon whereof thou ſtandeſt Indicted, or Not Guilty?

*Freind.* Not Guilty, my Lord.

*Cl. of Arr. Culprits.* How wilt thou be Tryed?

*Freind.* By God and my Country.

*Cl. of Arr.* God ſend thee good Deliverance.

*Freind.* I don't know any thing of it, I am as Innocent as the Child unborn.

*The Warrant for the* Habeas Corpus *was Signed by the Lord Chief-Juſtice* Holt, *and delivered to the Priſoner, who ſent it away to the* Crown-Office *by his Sollicitor, to get the Writ ſealed.*

*Freind.* My Lord, I have ſomething to move, if your Lordſhip pleaſe to hear me, and the reſt of my Lords the Judges; That if any matter of Law do ariſe upon my Trial, I may be heard by my Councel, that you may not deſtroy me without Law.

*L. C. Juſt. Holt.* Look you Sir *John Freind*, if any matter of Law do ariſe at your Trial, and you will tell us what that matter of Law is, and the Court ſee that it is a matter of Doubt, we can, and ought, and no Queſtion ſhall aſſign you Councel; but that is time enough when ſuch matter does ariſe.

*Freind.* My Lord, It is well known to your Lordſhip, and all the Court, that I am not a Lawyer; but, I hope, as you are of Councel for the King as Judges of Law, ſo you will be of Councel for me; for I am not a Lawyer, and cannot know, whether any matter that ariſes be Law or no; and therefore I humbly beſeech your Lordſhip to be ſo juſt and kind, as to tell me whether it be Law or not Law, and I ſubmit my ſelf to your Lordſhip's direction.

*L. C. Juſt. Holt.* Sir *John Freind*, We are bound to tell you when any thing of that Nature appears before us, and to let you have all the benefit of the Law that poſſibly you can have; for we are obliged to be indifferent between the King and you.

*Freind.* My Lord, I don't queſtion it. I deſire alſo I may have Pen, Ink, and Paper.

*L. C. Juſt. Holt.* Yes, yes, by all means. ( And he had them. )

*Cl. of Arr. Cryer,* Make Proclamation.

*Cryer.* Oyez: *You good Men of the City of* London, *ſummoned to appear here this Day, to Try between our Sovereign Lord the King, and the Priſoner that is at the Bar, who have been called, and made Default, anſwer to your Names, and ſave your Iſſues.*

Then the Defaulters were call'd over.

*Cl. of Arr.* You the Priſoner at the Bar, theſe Men that you ſhall hear call'd, and perſonally appear, are to paſs between our Sovereign Lord the King and you, upon Trial of your Life and Death; If therefore you will challenge them, or any of them, your time is to ſpeak unto them as they come to the Book to be ſworn, before they be ſworn.

*Cryer.* Call *Thomas Clerk.*

*Freind.* Pray, Sir, How many may I challenge?

*L. C. Juſt. Holt.* Look you, Sir *John*, you may challenge, that is, except againſt 35, without ſhewing any Cauſe: If you don't like them to be of the Jury, you may refuſe them; and as many others, as you have Cauſe to except againſt.

*Freind.* My Lord, I humbly beſeech you, that becauſe perhaps I may miſtake in numbring, that I may have timely Notice before the 35 be excepted againſt, or elſe it may occaſion me a great deal of prejudice.

*L. C. Juſt. Holt.* Sir, The Clerk ſhall take care of that, he ſhall inform you how many

Many you Challenge, and you ſhall receive no prejudice of that kind, or by any ſlip in point of Form.

*Cl. of Ar.* Cryer, call *Thomas Clark*, *(who appeared.)*

*Fr.* Pray Sir, muſt not I ſee the Gentleman?

*L. C. J. H.* Yes, yes, by all means, *(he was ſhewn to him.)*

*Fr.* You may Swear Mr. *Clark*; I do not except againſt him. I deſire but Honeſt Gentlemen, and I ſhall come off I warrant you: I am as Innocent as the Child unborn.

*L. C. J. H.* Swear Mr. *Clark.*

*Cl. of Ar.* Hold him the Book; *(which was done)* look upon the Priſoner, you ſhall well and truly Try, and true deliverance make between our Soveraign Lord the King, and Priſoner at the Barr, whom you ſhall have in Charge, according to your Evidence. *So help you God.*

*Cl. of Ar. Nathan. Green.*

*Fr.* I except againſt him.

*Cl. of Ar. Thomas Emms.*

*Fr.* I accept him for a Juryman, I have nothing to object againſt him, *(he was Sworn.)*

*Cl. of Ar. Francis Byer.*

*Fr.* Pray let me ſee him, *(he was ſhewn to him)* I do except againſt him, I Challenge him.

*Cl. of Ar. Benjamin Dry.*

*Fr.* I except againſt him.

*Cl. of Ar. James Domew.*

*Fr.* I accept him, I have nothing to ſay againſt him, I would have him to be a Juryman.

Mr *Demew*, My Lord, I am not a Freeholder.

*L. C. J. H.* Sir *John*, Do you Challenge him peremptorily, or do you Challenge him for Cauſe?

*Fr.* My Lord, I don't Challenge him at all, I accept of him.

Mr. *At. Gen.* If he have no Freehold, we that are for the King will except againſt him; for I would not have any body that is a Freeholder ſerve upon the Jury.

*Cl. of Ar. Henry Hunter.*

*Fr.* Pray, my Lord, is this Gentleman that was called before laid aſide? He is not one that Challenge.

*L. C. J. H.* No, no, he is Challenged by the Kings Council as no Freeholder.

*Fr.* Then he is only ſet aſide, I ſuppoſe, I ſpeak it for this Reaſon, I would not be miſtaken in my number.

*L. C. J. H.* Care ſhall be taken of all that, he is not to reckoned as one that you Challenged, he is Challenged for want of Freehold by the King's Council.

*Cl. of Ar.* What ſay you to Mr. *Hunter?*

*Fr.* I accept of Mr *Hunter*, let him be Swore, *(which was done.)*

*Cl. of Ar. John Cox.*

Mr. *Cox*, My Lord, I have no Freehold in *London.*

Mr. *At. Gen.* Then let him be ſet aſide.

*Cl. of Ar. George Bodington.*

*Fr.* I except againſt him.

*Cl. of Ar. John Hedges.*

*Fr.* I except againſt him.

*Cl. of Ar.* You Challenge him Sir, do you?

*Fr.* Yes, yes, I do.

*Cl. of Ar. John James.*

*Fr.* I Challenge him.

*Cl. of Ar. Thomas Poole.*

*Fr.* I accept of him, *(he was Sworn.)*

*Cl. of Ar. Peter Parker.*

*Fr.* I accept of him, *(he was Sworn.)*

*Cl. of Ar. George Grove.*

*Fr.* I except againſt him, for I have him not in my Pannel.

*L. C. J. H.* How comes that?

*Fr.* I can't tell, my Lord, I have been kept alone while *Saturday* laſt, only that worthy Gentleman, (bowing to Mr. *Baker*, the Proſecutor for the King) was with me to give me notice of my Tryal before.

*Cl. of Ar. Nathaniel Wyerſdale.*

*Fr.* I Challenge him.

*Cl. of Ar. Samuel Blewitt.*

*Fr.* I Challenge him.

*Cl. of Ar. James Bodington.*

*Fr.* I Challenge him.

*Cl. of Ar. John Woolfe.*

*Fr.* Sir, I do aſſure you I have him not in my Pannel, upon my word. I Challenge him.

*Cl. of Ar. Samuel Jackſon.*

*Fr.* I accept of him, *(he was Sworn.)*

*Cl. of Ar. Nathaniel Long.*

*Fr.* I accept of him, *(He was Sworn.)*

*Cl. of Ar. Richard Chiſwell.*

*Fr.* I Challenge him.

*Cl. of Ar. George Child.*

*Fr.* I accept of him, *(he was Sworn.)*

*Cl. of Ar. William Walker.*

*Fr.* I accept of him, *(he was Sworn.)*

*Cl. of Ar. John Wells.*

*Fr.* I Challenge him.

*Cl. of Ar. John Hibbert.*

*Fr.* I Challenge him.

*Cl. of Ar. John Pettit.*

*Fr.* I Challenge him.

*Cl. of Ar. James Robinſon.*

*Fr.* Sir, he is not in my Pannel upon my word.

*Cl. of Ar.* He is in the Original Pannel.

Mr. Sheriff *Buckingham.* My Lord, here is the Original Pannel, and here's his name here; and there is not a perſon in this Pannel, but what was Originally put in, except it be about five or ſix at the end, and this is none of them.

*Fr.* I Challenge him.

*Cl. of Ar. Thomas Hollis, (he did not appear.)*

*L. C. J. H.* Pray, Sir *John*, who had you that Copy from? Who gave it you?

*Fr.* My Sollicitor.

Mr. *Trotman.* My Lord, he had none from me I am ſure: I received the Pannel from the Sheriff, but no body, from Sir *John*, was ever with me for a Copy.

*Fr.* My Lord, my Sollicitor brought it to me on *Saturday* night.

*L. C. J. H.* Who is your Sollicitor that gave you that Copy?

*Fr.* His name is Mr. *Burleigh*, my Lord.

*L. C. J. H.* Where is he? Let's ſee this Mr. *Burleigh.*

*Fr.* My Lord, he is gone to the Crown Office it ſeems, for the *Habeas Corpus.*

M. *J. Rokeby.* It is your own Sollicitor that has put the abuſe upon you, if it be ſo.

*Cl. of Ar. Thomas Hollis, (he did not appear.)*

*L. C. J. H.* Pray Sir *John Friend*, how many have you in all?

*Fr.* In number my Lord, would you have me tell you how many I have in number?

*L. C. J. H.* Aye, in number, in your Copy of the Pannel.

Mr. Sh. *Buckingham.* In the Pannel there are above Fourſcore.

*Fr.* I have ſeventy one my Lord. Then *Thomas Hollis* appeared.

*Cl. of Ar.* Do you Challenge him, Sir.

Mr. Sh. *Buckingham.* Pray let the Secondary produce his Pannel that he had from my Brother and me, and I am aſſured the Court will find they were all named in that Pannel.

Mr. *Trotman*

Mr. *Trotman.* My Lord, I have the Pannel, but they never came to me for a Copy, as I expected; I had got one ready, if Sir *John Friend*, or any Perſon for him, had ſent to me, they might have had it.

Mr. Sh. *Buckingham.* And theſe People that are not in Sir *John Friends* Pannel, are none of the half dozen that were added when we came to the knowledg of them, that they were Freeholders.

*L. C. J. H.* When were they added Sir?

Mr. Sh. *Buckingham.* They were added on *Friday* in the Afternoon, and it ſeems he never came for the Pannel to the proper Officer, and thoſe that he objects againſt were not added, but are in the Original Pannel.

*L. C. J. H.* Truly, I can't ſee any body is to blame in this matter but your own Sollicitor.

Mr. *Trotman*, My Lord, I aſſure you I had made a Copy, and I wondered I did not hear of them: I do not know where he got this Copy.

*L. C. J. Treby.* In truth if you will not ſend to the proper Officer for a Copy, when you might have had it, you muſt be content with what you have, for no body is bound to give you a Copy unleſs you ask for it.

*L. C. J. H.* Well, what ſay you to *Thomas Hollis*?

*Fr.* I Challenge him, my Lord, for he is not in my Pannel.

*Cl. of Ar. John Sherbrook.*

*Fr.* I accept of him, *(he was Sworn.)*

*Cl. of Ar. James Blackwell.*

*Fr.* He is not in my Pannel upon my word, my Lord.

*L. C. J. H.* I can't help it, he is in the Sheriffs Pannel that is returned here.

*Fr.* I Challenge him.

*Cl. of Ar. Thomas Gardner.*

*Fr.* I accept of him.

Mr. *Gardner.* My Lord I am no Freeholder in the City.

Mr. Juſtice *Rokeby*, Mr. *Gardner*, have you not lately conveyed away your Freehold?

Mr. *Gardner*, No, indeed, my Lord, I never had any.

*Cl. of Ar. William Prince.*

*Fr.* I accept of him. *(He was Sworn.)*

*Cl. of Ar. John Simons.*

*Fr.* I challenge him.

*Cl. of Ar. Robert White.*

*Fr.* I Challenge him.

*Cl. of Ar. Joſeph Morewood.*

*Fr.* I accept him, his Name is *John* I ſuppoſe, for ſo it is in my Pannel.

*Cl of Ar.* No it is *Joſeph.*

Mr. *Morewood*, My Name is *Joſeph.*

*Fr.* Well, Sir, I accept of you, I don't queſtion but you are an Honeſt Man. *(He was Sworn.)*

*Cl. of Ar.* Cryer Countez. *Thomas Clark.*

*Cryer.* One, *&c. (So of the reſt to the Laſt.)*

*Cl. of Ar. Joſeph Morewood.*

*Cryer.* Twelve good Men and true, ſtand together, and hear your Evidence.

The Names of the Jury were theſe.

| | | |
|---|---|---|
| *Thomas Clark*, | Jur. | *Nathaniel Long*, |
| *Thomas Emms*, | | *George Child*, |
| *Henry Hunter*, | | *William Walker*, |
| *Thomas Poole*, | | *John Sherbrook*, |
| *Peter Parker.* | | *William Prince*, and |
| *Samuel Jackſon*, | | *Joſeph Morewood.* |

*Cl. of*

*Cl. of Ar.* Cryer make Proclamation.

*Cryer.* O Yes, If any one can inform my Lords the King's Juſtices, the King's Serjeant, the King's Attorney General, or this Inqueſt now to be taken, of the High-Treaſon whereof the Priſoner at the Bar ſtands Indicted, let them come forth, and they ſhall be heard; for now the Priſoner ſtands at the Bar upon his Deliverance: And all others that are bound by Recognizance to give evidence againſt the Priſoner at the Bar, let them come forth and give their Evidence or elſe they forfeit their Recognizance; and all Jury-men of *London*, that have been called, and have appeared, and are not ſworn may depart the Court.

*Cl. of Ar.* Sir *John Friend*, Hold up thy Hand, (which he did.) You that are Sworn, Look upon the Priſoner, and hearken to his Charge; He ſtands Indicted by the Name of Sir *John Friend*, late of *London*, Knight, (*prout* in the Indictment, *mutatis mutandis*) — And againſt the Form of the Statute in that caſe made and provided. Upon this Indictment he hath been Arraigned, and thereunto hath pleaded not Guilty, and for his Tryal hath put himſelf upon God, and the Countrey, which Countrey you are; your Charge is to enquire, Whether he be Guilty of the High-Treaſon whereof he ſtands Indicted, or Not Guilty; if you find him Guilty, you are to enquire what Goods and Chattels, Lands and Tenements he had at the time of the High-Treaſon Committed, or at any time ſince; if you find him Not Guilty, you are to enquire if he fled for it; if you find that he fled for it, you are to enquire of his Goods and Chattels, as if you had found him Guilty; if you find him not Guilty, nor that he did fly for it, you are to ſay ſo, and no more, and hear your Evidence.

Mr. *Mountague.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury; This is an Indictment of High-Treaſon, that is brought againſt Sir *John Friend* the Priſoner at the Bar, for aſſociating with, and aiding the King's Enemies, with a Deſign to procure an Invaſion from *France*, and to raiſe a Rebellion within this Kingdom, and this was to Depoſe the King, and Reſtore the late King *James* and in order to the effecting theſe his wicked purpoſes, the Indictment ſets forth; That the firſt of *July* laſt, he did Meet, and Conſult, and agree with one Mr. *Charnock*, (a Gentleman ſince Tryed, Convicted and Attained of High Treaſon) how they ſhould procure an Army from *France*, to come and Invade this Kingdom; and ſhould Raiſe a ſufficient number of Men, to Facilitate the Landing of the *French*; and the Indictment particularly charges the Priſoner at the Bar, with ſending Mr. *Charnock* into *France*, to the late King *James*, to acquaint him with the Deſign, and to Deſire him to procure a great number of Forces from the *French* King, to come here, and Land within this Kingdom: And the Indictment does likewiſe charge him with procuring, and Receiving a Commiſſion from the late King *James* to Conſtitute him, the Priſoner at the Bar, a Colonel of Horſe; and likewiſe with laying out, and expending, and paying ſeveral Sums of Money in Liſting, and Keeping Soldiers, and Men in pay under him, which was to be in his Regiment; and with laying out ſeveral Sums of Mony in buying Arms, and Horſes for this Invaſion and Rebellion that was thus Deſigned to be made, and Raiſed within this Kingdom; To this Gentlemen, he has Pleaded not Guilty; we ſhall call our Witneſſes, and prove the Fact, and we do not doubt but you will find him ſo.

*Friend.* Prove this if you can, it cannot be.

Mr. *At. Gen.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, the Priſoner at Bar, Sir *John Friend*, ſtands Indicted of High Treaſon, in Compaſſing, and Imagining the Death of the King, and likewiſe in Adhereing to the King's Enemies.

Gentlemen, the Overt Acts laid in the Indictment to prove this Treaſon, are theſe.

That the Priſoner at the Bar did accept a Commiſſion from the late King *James*, to Raiſe a Regiment of Horſe in this Kingdom, in order to joyn with the *French*, when they Invaded it; and there were ſeveral Meetings, and Conſultations between him, and ſeveral others whom you will hear named by the Witneſſes, upon which it was Reſolved to ſend a Meſſenger one *Charnock* into *France*, to deſire the late King *James*, to prevail with the *French* K. to get a number of Men, in all 10000. with an Aſſurance, that they would Aſſiſt him with a number of Horſe

when

when he came: and in purſuance of this Deſign, the Priſoner at the Bar did raiſe Men, and pay ſome Summs of Money for their ſubſiſtence, and Liſted, and had them in Readineſs; and provided Horſes and Arms. Theſe are the Overt-Acts laid in the Indictment; the Evidence that will be produc'd to you, to prove this Treaſon, and theſe Overt Acts, will be in this Manner.

Gentlemen, you will ſee by the Evidence, that there has been a Deſign and Conſpiracy on Foot for ſeveral Years to Aſſaſſinate the King's Perſon, and to have an Invaſion from *France* at that Time, by armed Force here to ſubdue this Kingdom. The Priſoner at the Bar, Sir *John Friend*, I think about Two Years ago had a Commiſſion ſent him from the late King *James*, to raiſe a Regiment of Horſe: There were ſeveral other Commiſſions ſent likewiſe, but one was ſent to the Priſoner, which he accepted of; and in purſuance of it, he appointed ſeveral Officers, and Liſted ſeveral Men for that Purpoſe, and expended ſeveral Summs of Money for the raiſing, and ſubſiſting of them.

Gentlemen, you will hear that his Lieutenant-Colonel was to be one *Blaire*, and his Major was to be one *Slater*; and this *Slater*'s Father was a Clergy-Man, and he undertook to bring in a Troop of Clergy-Men that had refuſed to take the Oaths. One of his Captains was one *Evans*, one *Richardſon* was another; and there were ſeveral other Officers whom you will hear named by the Witneſſes, that were appointed and ingag'd to make up the Regiment.

Gentlemen, you will hear farther by the Witneſſes, that about *May*, or *June* laſt, they having rais'd a conſiderable Number of Men, there were ſeveral Meetings had between the Priſoner at the Bar, and ſeveral other Perſons, in order to ſend ſome Perſon over to get Forces from *France*, to Invade this Kingdom. The firſt Meeting, that you will hear of, was at the *Old King's Head-Tavern* in *Leaden-Hall-Street*, and there were preſent the Priſoner at the Bar, my Lord of *Aylesbury*, my Lord *Montgomery*, Sir *John Fenwick*, Sir *William Parkins*, Mr. *Charnock*, (who was lately Condemned and Executed for the Deſign of Murdering the King) Mr. *Porter*, and one *Cook*. At that Meeting you will hear what their Debates were, and what their Reſolutions: after ſeveral Debates, who they ſhould ſend, they reſolv'd to ſend Mr. *Charnock*, to go into *France*, to deſire the late King *James* to get 10000 Men of the *French* Troops to land upon our Coaſts, about 8000 Foot, and the reſt Horſe, and Dragoones: And they did Impower him in their Names, to aſſure the late King *James*, that they would, when ever he Landed with his *French* Troops, be ready to aſſiſt him with near Two Thouſand Horſe among them.

Upon this, Gentlemen, Mr. *Charnock* undertook to go upon this Meſſage: But about a Week after they met again, for he was unwilling to go upon ſuch an Errand, without having a full Reſolution and Aſſurance from theſe Gentlemen that were thus Engag'd, that he might ſatisfie the late King what they would certainly do. So they met again about a Week after, and that was at a Tavern in St. *James*'s *Street*, near Sir *John Fenwick*'s Lodgings, one Mrs. *Montjoyes*, there was the Priſoner at the Bar, my Lord of *Alesbury*, and moſt of the ſame Company that were at the Meeting before: And Mr. *Charnock* deſired to know, if they did agree to what had been Propos'd and Reſolv'd on before; for he was unwilling, and did not care to go without a full Aſſurance of the performance. They did all agree, and deſir'd that he would go with all Speed, and that he ſhould aſſure King *James*, they would be ready to meet him, if they had Notice where he would land.

Pray, Gentlemen, obſerve the Time when theſe Meetings were. It was in *May*, or *June* laſt, ſoon after the King was gone to *Flanders*; and they thought this a fit Opportunity, when the King's Forces were drawn out of *England* into *Flanders*, for carrying on the Campaign, then was the

proper Time, according as they diſcours'd the Matter, the People being, as they ſaid, generally Diſſatisfied, and but few Forces in *England* to oppoſe them.

Mr. *Charnock* accordingly went over into *France*, and about a Month after return'd again, and acquainted them that he had told King *James* their Reſolution, and how they would aſſiſt him, and what they deſir'd of him, and, in ſhort, had deliver'd his Meſſage: but that King *James* told him, He thank'd them very much for their Kindneſs, and Readineſs to aſſiſt him; but at that Time the *French* King could not ſpare any Forces, nor could it be all that Summer, and ſo there was nothing to be done; and thereupon it reſted till the laſt Winter.

Then, Gentlemen, you will hear that the laſt Winter the Deſign was renewed again, about *January* laſt: For Sir *George Barclay* came over from the late King, being a Lieutenant of his Guards there, and then they entered into a Conſpiracy to aſſaſſinate the King; and that was to be done firſt, to facilitate the Invaſion, which was to follow immediately upon the Execution of the Aſſaſſination: For they thought they cou'd have no Aſſurance of Succeſs in their Invaſion, as long as the King lived; and I hope every one will take notice, how precious that Life is to us, when it is ſo apparent to all the World, that our Enemies cannot hope for any Succeſs to their Enterprizes and Deſigns to deſtroy us, but by taking that Life away.

Gentlemen, this very Conſpiracy you will hear the Priſoner at the Bar was acquainted with, and privy to, even this Aſſaſſination; tho' indeed you will hear he did not much approve of it, becauſe he thought it wou'd be a Diſſervice to the late King's Affairs; but he was at ſeveral Meetings with Mr. *Porter*, and Mr. *Charnock*, and Sir *William Parkins*, and ſeveral others that were Conſpirators in that Deſign, and was acquainted with it, as you will hear by the Evidence.

Gentlemen, you will hear further, that about *January* laſt, the Invaſion being intended to be quickly made, the Priſoner at the Bar, Sir *John Friend*, had frequent Meetings with *Blaire*, that was his Lieutenant-Colonel, and other Officers, to conſider and prepare how to be in a Readineſs. About that time the Priſoner at the Bar, Captain *Blaire*, and one Captain *Ridley*, met at a Place in *Exchange-Ally*, and there they diſcourſed among one another; and there *Ridley* ſaid there was a conſiderable *Roman-Catholick* that was ſent to King *James*, and he wou'd bring the laſt Orders; and Sir *John Friend* ſaid he knew of it very well, it was ſo, and he hoped he ſhou'd have them brought very quickly.

At another time, the Priſoner at the Bar, and *Blaire* his Lieutenant-Colonel, met at *Jonathan's* Coffee-Houſe, and the Priſoner took him up in his Coach, and carried him along with him, and there they had a great Diſcourſe of the Affairs of the Regiment. The Priſoner at the Bar, Sir *John Friend*, told *Blaire* they muſt be very good Husbands of their Money: For if the Invaſion ſhou'd miſcarry, he ſhou'd not have Money enough to carry on his Trade, but he wou'd take Care about ſome Officers that had not Money to mount themſelves; but a great many were to prepare for themſelves at their own Charges, and for thoſe that were to be under them. They had likewiſe then ſome Diſcourſe about the *Thoulon* Fleet coming about, and that he thought it not adviſeable to ſtir till the *Thoulon* Fleet came round. He ſaid he wou'd not put a Foot in the Styrrop till that were done; and that he wou'd keep out of the Way and lie private till all was in a Readineſs, and adviſed Captain *Blair* to do ſo too.

Gentlemen, you will find it further proved, that about *May* laſt, the Priſoner at the Bar paid 20 *l.* to this Captain *Blaire*, who had laid out Moneys in the Affairs of the Regiment, and this was to reimburſe him what he had ſo laid out; and it was in this manner. You have all heard, I ſuppoſe, of one Colonel *Parker*, who being taken upon his coming over from *France*, was a Priſoner in the *Tower*, but made his Eſcape from thence, to which Eſcape

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the Prisoner at the Bar was privy. This Escape cost 300 *l.* as you will hear, and the Prisoner laid down 100 *l.* of it. But this was to be repay'd him again: but how was it? there was one *Johnson* a Priest, a Conspirator likewise in this Design of Assassinating the King, and he undertook and promised, that the late King should pay this 100 *l.* And accordingly one *Piggott* went over into *France*, and had this 100 *l.* paid him by King *James*, to repay it to Sir *John Friend*: But he thought fit to keep the Money, and Sir *John Friend* cou'd not get it of him, and he durst not ask it, because he knew the Consideration was not fit to be made publick. But he told Captain *Blair* I cannot pay you this Money out of my own Pocket; but *Piggott* ought to pay me, who has received this Money of mine. If you will prevail with *Johnson*, who got this Money from the late King to be paid to *Piggott*, to persuade *Piggott* to pay 20 *l.* I will allow it in part of the Money he is to pay me, and you shall have it. Captain *Blair* did prevail with *Johnson* to persuade *Piggott* to pay this 20 *l.* and Captain *Blair* did receive it, and Sir *John Friend* did agree to allow it to *Piggott* out of the 100 *l.* due to him.

Gentlemen, at another time, about *Christmas* last, there was another 20 *l.* paid by Sir *John Friend*'s Order and Direction, by *Piggott* to *Blair* upon the same Account, by the Mediation of *Johnson* the Priest; and this was paid and allow'd as being laid out in the Affairs of the Regiment before, he being intitled as Lieutenant Colonel, to look after the Regiment.

Gentlemen, I have now opened the Substance of the Evidence; the particulars you will hear from the Witnesses themselves. If I have opened it amiss, you will take care, when the Witnesses are produced, to observe what they say, who will tell you what really was done, and will rectifie any Mistake of mine: For I wou'd have no such Mistake do the Prisoner at the Bar any Prejudice.

*Mr. Solicitor General.* Gentlemen, Mr. Attorney has open'd the Nature and Course of our Evidence so fully, that I shall make no Repetition of any of the particulars; but call our Witnesses and prove it in Order as it has been opened. And first, we call Captain *George Porter* (who came in.)

*Friend.* My Lord, before Mr. *Porter* is sworn, I desire to know whether he is a Roman Catholick, or a Protestant?

*L. C. J. Holt.* Why do you desire that? Is not a Roman Catholick a Witness? Though he be a Roman Catholick, that's no Objection to his being a Witness.

*Friend.* My Lord, I desire to ask him the Question, Whether he be a Roman Catholick or no?

*L. C. J. Holt.* Sir *John Friend*, it is not a proper Question.

*Friend.* My Lord, a Man ought to know what Profession they are of, that are Witnesses against him for his Life.

*L. C. J. Holt.* Will you ask him whether he be a Christian or no?

*Friend.* My Lord, I desire to know whether he be a Papist or a Protestant.

*Mr. Attorney General.* If Mr. *Porter* be willing to tell you, he may; but it is not a proper Question.

*L. C. J. Holt.* Especially before he is sworn; he is not entitled to ask any Questions whatsoever, till he be sworn.

*Friend.* My Lord, I beseech you let me have the Question answered.

*Mr. Solicitor General.* Sure you don't consider, that the Answer to that Question is to accuse himself; you don't consider the Consequences of it.

*Friend.* Pray, my Lord, let me have my Right.

*L. C. J. Holt.* The Question is, Whether it is your Right or no.

*Friend.* My Lord, I wou'd not trouble the Court if I cou'd help it, but my Life and All is at Stake, and I must make the best Defence I can.

*L. C. J. Holt.* Indeed your Question is improper in it self; but if he have a Mind to tell you, and answer voluntarily, he may.

*Friend.*

*Friend.* I humbly beg of your Lordſhip that he may anſwer the Queſtion.

*L. C. J. Holt.* I cannot ſee you have a Right to have this Queſtion anſwer'd you.

*Friend.* Mr. *Porter*, You are a Gentleman, and I deſire you will anſwer, Whether you be a Roman Catholick or not?

*Mr. Solicitor General.* Before he does anſwer, I deſire he may be acquainted with the Danger; He was born a Proteſtant, no doubt, and then turning Roman Catholick, he ſubjects himſelf to a very ſevere Penalty.

*L. C. J. Holt.* Sir *John Friend*, I told you your Queſtion was not proper to be ask'd.

*Friend.* Pray, my Lord, let him anſwer the Queſtion, it will be of great uſe to me in my Tryal; pray let me have my right.

*L. C. J. Holt.* You ſhall have all the Right done you that can be; but, in the firſt place, if a Man be a Roman Catholick, notwithſtanding his Religion, he is a good Witneſs: And beſides that, it may be his anſwering the Queſtion may ſubject him to ſeveral Penalties; at leaſt he is liable to Proſecution upon ſeveral Acts of Parliament, that are very penal; and therefore it is by no means to be ask'd.

*Friend.* My Lord, I pray only that he may anſwer the Queſtion.

*L. C. J. Holt.* No Man is bound to anſwer any Queſtion that tends to make him accuſe himſelf, or ſubject him to any Penalties.

*Friend.* My Lord, I do with ſubmiſſion deſire it, and it is no great matter for him to ſay whether he be Papiſt or Proteſtant.

*L. C. J. Holt.* If it be no great Matter, then why do you inſiſt upon it? But perhaps it may be a great Matter in the Conſequence of it to him; a Man therefore is not obliged to anſwer any ſuch Queſtions.

*Friend.* I beſeech your Lordſhip, let him anſwer the Queſtion.

*L. C. J. Holt.* You have my Opinion; If you will you ſhall have the Opinions of the reſt of the Judges; my Opinion is that the Queſtion ought not to be anſwer'd.

*L. C. J. Treby.* Since your Lordſhip's Pleaſure is that we ſhould deliver our Opinions upon this Point, I muſt declare, I am of the ſame Opinion, that no Man is bound to anſwer any Queſtions that will ſubject him to a Penalty, or to Infamy. If you ſhould ask him whether he were a Deer-Stealer, or whether he were a Vagabond, or any other thing that will ſubject him to Puniſhment, either by Statute or by Common-Law; as whether he be guilty of a Petty-Larcenary, or the like, the Law does not oblige him to anſwer any ſuch Queſtions.

*Friend.* Well, I hope the Jury will conſider it, that he will not anſwer the Queſtion; and therefore they are to take it for granted that he is ſo.

*L. C. J. Treby.* And now to this preſent Purpoſe, to ask a Man whether he be a Popiſh Recuſant, is to ſubject him to Danger; for when you ask him that Queſtion, if he were not bred up in that Religion, then for him to own himſelf of that Religion now, is to own as great a Crime as that you are charg'd with. If it were not ſo, but he was always bred in that Religion, yet there are very great Penalties that he is ſubject to, as the Confiſcation of two third parts of his Eſtate, and ſeveral other things that he may be liable to, if he ſhould diſcloſe that upon his Anſwer to the Queſtion, which without this Diſcovery cou'd not be prov'd perhaps. We muſt keep the Law ſteady and even between the Priſoner and the Witneſs.

*Mr. Juſtice Nevil.* I am of the ſame Opinion, it does ſubject him to a Penalty; and unleſs he will voluntarily anſwer it of himſelf, I think it cannot be demanded of him; for he may ſubject himſelf to a Proſecution by it.

*Mr. Juſtice*

Mr. *J. Rokeby.* I think, it is not a Queſtion that can of right be impoſed upon him; he may anſwer it if he will; but he is under no Obligation to anſwer it, becauſe it may tend to accuſe himſelf of a Crime, for which he may be proſecuted, and likewiſe will ſubject him to other Penalties, which the Law cannot compel him to ſubject himſelf to.

*Then Captain* Porter *was ſworn.*

*Freind.* I hope, Gentlemen of the Jury, you'l conſider this.

*Mr. Sol. Gen.* Mr. *Porter,* do you know Sir *John Freind,* the Priſoner at the Bar?

Capt. *Porter.* Yes, Sir.

*Mr. Sol. Gen.* Pray then will you give my Lords and the Jury an Account what Meetings you have had with him, where thoſe Meetings were, and when, and what paſt between you, about inviting the *French* over hither, or for a Riſing here.

Capt. *Porter.* My Lord, about the latter end of *May* laſt, or the beginning of *June,* we had two Meetings, one was at the *King's-Head* in *Leadenhall-ſtreet,* the other at Mrs. *Mountjoy's* in St. *James's-ſtreet.* At the firſt Meeting there were preſent, my Lord of *Aylesbury,* my Lord *Montgomery,* Sir *John Freind,* Sir *William Parkins,* Sir *John Fenwick,* Mr. *Cook,* Capt. *Chernock,* and my ſelf; after Dinner Mr. *Goodman* came in: Now at both thoſe Meetings it was conſulted of, and agreed, to ſend Capt. *Chernock* into *France* to King *James,* to deſire him to borrow of the French King 10000 Men to come over hither, 8000 Foot, 1000 Horſe, and 1000 Dragoons. Captain *Chernock* ſaid, He did not care to go upon a fooliſh Meſſage, and therefore deſired to know what they wou'd have him to acquaint King *James* with, and aſſure him of. They all agreed to meet the King, whenever they had Notice of his Landing, with a Body of 2000 Horſe; of which every one in particular was to bring their *Quota,* wherever he wou'd appoint.

*Mr. Attorn. Gen.* When was the ſecond Meeting?

Capt. *Porter.* That was at Mrs. *Mountjoy's.*

*Mr. Attorn. Gen.* But I ask you when it was? how long after the firſt?

Capt. *Porter.* I believe it was about a Fortnight after, or ſo.

*Mr. Attorn. Gen.* What was that Meeting for?

Capt. *Porter.* The ſecond Meeting was to confirm the firſt. Capt. *Chernock* informed me, that he was to go within Three or Four Days, and therefore deſired to have a Meeting before he went.

*Mr. Attorn. Gen.* What Diſcourſe was there at that ſecond Meeting? what Occaſion was there for it?

Capt. *Porter.* Capt. *Chernock* deſired the Meeting once more before he went, to ſee whether we all kept our Reſolution.

*Mr. Sol. Gen.* Pray what do you know of Sir *John Freind's* agreeing to raiſe a Regiment of Horſe?

Capt. *Porter.* I know nothing of that matter, but what I have heard ſeveral People talk; but I have heard him ſay, he would be as ready as any Man, whenever the King came: And I have heard from Captain *Chernock,* and from Sir *William Parkins,* that he had a Commiſſion to be a Collonel of Horſe.

*Mr. Attorn. Gen.* Pray Sir, upon that ſecond Meeting, who were preſent.

Capt. *Porter.* I told you, Sir, the Priſoner at the Bar was preſent at both Meetings.

*Mr. Sol. Gen.* Who elſe were there?

Capt. *Porter.* My Lord of *Aylesbury,* Sir *William Parkins,* Capt. *Chernock,* and I cannot tell whether my Lord *Montgomery,* and Mr. *Goodman* were there; Mr. *Cook* and my ſelf were there, but the Priſoner at the Bar I am ſure was there.

*Mr. Sol. Gen.* Pray, Capt. *Porter,* will you remember and recollect your ſelf, who were at the firſt Meeting?

Capt. *Porter.* I have named them already, Sir.

*Mr. Sol. Gen.* Name them again then.

Capt. *Porter.* My Lord of *Aylesbury,* my Lord *Montgomery,* Sir *John Freind,* Sir *William Parkins,* Sir *John Fenwick,* Captain *Chernock,* Mr. *Cook,* and my ſelf: we dined there, and after Dinner Mr. *Goodman* came in.

*Mr. Attorn. Gen.* Pray, Sir, when did you ſee Mr. *Chernock* after this, and what

Diſcourſe had you with him about his Journey and the Succeſs of it?

Capt. *Porter.* I never ſaw him till three or four Days after our Riot Buſineſs in *Drury-Lane*, upon the Account of which I had been a Priſoner in *Newgate*.

*Mr. Attorn. Gen.* Well, and what did he ſay to you?

Capt. *Porter.* He told me, that he had been in *France*, but that King *James* told him, the French King could not ſpare ſo many Men that Year; and withall, that he had been with Sir *John Freind*, and the ſeveral other Perſons with Meſſages from the King, but I do not know whether he had been there or no, only as he told me that he had been, and brought that Anſwer.

*Mr. Attorn. Gen.* Pray now tell us, what other Meetings you have had about this Matter this Winter?

Capt. *Porter.* I was once with Sir *George Barclay* and Sir *John Freind* at the *Nag's Head* in St. *James's-ſtreet*; I cannot tell what Diſcourſe they had, they whiſpered among themſelves.

*Mr. Attorn. Gen.* Who elſe was there?

Capt. *Porter.* There was Sir *George Barklay*, Sir *William Parkins*, my ſelf, Mr. *Ferguſon*, and one *Humes*.

*L. C. J. Holt.* Where was that do you ſay?

Capt. *Porter.* At the *Nag's Head* in St. *James's-ſtreet*.

*Mr. Attorn. Gen.* Was there any body elſe there that you can remember?

Capt. *Porter.* Captain *Chernock* came in after Dinner, but I cannot ſay he dined there.

*Mr. Attorn. Gen.* And who elſe do you remember?

Capt. *Porter.* There came in one *Harriſon* after Dinner, he is a reputed Romiſh Prieſt, and goes by the Name of *Johnſon*.

Mr. *Mountague.* Pray, Capt. *Porter*, what was that Meeting for?

Capt. *Porter.* They had ſeveral Whiſperings among themſelves, but what they diſcourſed of I cannot tell.

Mr. *Mountague.* Pray, did Sir *John Friend* ſay any thing that you heard at that Meeting?

Capt. *Porter.* Sir *George Barclay* did ſay, That ſome People that were not ſo violent had written over into *France* to ſtop this buſineſs; upon which ſaid I, I hope you will have no Letter to night. Upon which Sir *John Freind* ſaid, is there any thing that is hid behind the Curtain? If there be, I am not fairly dealt withal; I will proceed no further.

*Mr. Attorn. Gen.* If Sir *John Freind* has a mind to ask him any Queſtions, he may.

*L. C. J. Holt.* Pray, Captain *Porter* let me ask you this Queſtion, Did all that were preſent at the firſt Meeting, at the *King's Head* in *Leadenhall-ſtreet*, agree to ſend Mr. *Chernock* into *France* to the late King?

Capt. *Porter.* Yes, my Lord.

*L. C. J. Holt.* All of them?

Capt. *Porter.* Yes; we deſired Captain *Chernock* to anſwer to the King for us, that we would meet him at the Head of 2000 Horſe.

*L. C. J. Holt.* Did Sir *John Friend* agree to it?

Capt. *Porter.* Yes; I do poſitively affirm he did.

*L. C. J. Holt.* Then at the ſecond Meeting, which, you ſay, was at Mrs. *Mountjoys*, what was ſaid then?

Capt. *Porter.* We did agree all, that Captain *Chernock* ſhould go on with the Meſſage that was reſolved upon at the firſt Meeting; and we would go on with the Buſineſs, and he ſaid he would go away in two or three Days.

*Mr. Attorn. Gen.* Will Sir *John Freind* ask him any Queſtions?

*Freind.* I will only ask him if they have done, whether he has any thing more to to ſay.

Capt. *Porter.* No, Sir.

*L. C. J. Holt.* The King's Council have done with him.

*Freind.* Then, my Lord, I will hear all they can ſay, and when I have heard the whole Evidence, I ſhall know how to anſwer to it.

*L. C. J. Holt.* Before you go, Captain *Porter*, I would ask you, what Anſwer Mr. *Chernock* brought back from *France*?

Capt. *Porter.* I ſay, I did not meet with Capt. *Chernock*, till after I was out of *Newgate* for the Riot buſineſs, and then he told me, he had been there, and he had

had acquainted the ſeveral Gentlemen with the Meſſages he had brought from King *James*, who thank't them for their kindneſs, but the *French* King could not ſpare ſo many men that year.

*Mr. Sol. Gen.* Then the next that we call is *Brice Blair*, (who was ſworn.) Pray Sir, do you know the Priſoner at the Bar, Sir *John Freind*?

Capt. *Blair.* Yes, my Lord; and I am very ſorry to come on ſuch an account as I do now againſt him. I am ſorry for it with all my heart——

*Mr. Attorn. Gen.* Well, Sir, pray will you give an account, what you know of Sir *John Freind*'s having a Commiſſion from the late King to be a Colonel of Horſe, and when it was, and how; pray tell my Lord, and the Jury the whole Matter.

Capt. *Blair.* All that I can ſay to this buſineſs is written in my Paper, and I refer to my Paper.

*Mr. Attorn. Gen.* You muſt not refer to your Paper, Sir, you muſt tell all what you know.

*L. C. J. Holt.* He may look upon any Paper to refreſh his memory.

Capt. *Blair.* I did ſee the Commiſſion, Sir, and I read it.

*Mr. Attorn. Gen.* What Commiſſion was it, Sir?

Capt. *Blair.* It was a Commiſſion from King *James*, to Sir *John Freind*.

*Mr. Attorn. Gen.* Where did you ſee it, Sir?

Capt. *Blair.* I ſaw it in his Lodgings at the *Strand*, when he lived near the *Strand* in *Surrey-ſtreet*.

*Mr. Attorn. Gen.* Who ſhew'd it you?

Capt. *Blair.* He ſhew'd it me himſelf.

*Mr. Attorn. Gen.* What was it for?

Capt. *Blair.* It was for raiſing a Regiment of Horſe.

*Mr. Attorn. Gen.* When was it that you did ſee it? how long ago was it?

Capt. *Blair.* It is well near two years ago, or thereabouts, as I remember.

*Mr. Attorn. Gen.* Who was to have been Colonel of that Regiment?

Capt. *Blair.* He was nominated to be Colonel of it himſelf in the Commiſſion.

*L. C. J. Holt.* Who was the Commiſſion directed to?

Capt. *Blair.* It was directed to him, to Sir *John Freind*.

*L. C. J. Holt.* Well, and what was done upon it? who were to be the Officers?

Capt. *Blair.* He promiſed me to be his Lieutenant Colonel; and I had the ſame from Mr. *Harriſon*, and there were ſeveral Letters that I ſaw, that came from my Lord *Melford* and Secretary *Caroll*, who were with King *James*.

*Mr. Attorn. Gen.* What other Officers were there appointed?

Capt. *Blair.* There was one *Richardſon* was to be one of his Captains, and there was one Mr. *Fiſher* was to be another, and one *Hall* another; *Fiſher* was to be his eldeſt Captain; and one Capt. *Evans* was to be his Captain Lieutenant, and one Capt. *Vernatti* was to be another.

*Mr. Attorn. Gen.* Do you remember who was to be his Major?

Capt. *Blair.* No, Sir, I think I cannot be poſitive as to that. I ſpoke to Capt. *Barneſley*, that had been a Lieutenant in King *James*'s Service, to be a Lieutenant, and ſometimes he accepted, and ſometimes he refuſed it.

*Mr. Attorn. Gen.* Pray, What did you do as Lieutenant Colonel upon this matter?

Capt. *Blair.* I endeavoured all I could to get Officers for them; and to raiſe Troops. I endeavoured to get what men I could my ſelf.

*Mr. Sol. Gen.* Pray what did you do? what Officers did you procure for him?

Capt. *Blair.* I told you *Vernatti*, and *Fiſher*, and one Mr. *Hall* that lives at *Deal*.

*Mr. Att. Gen.* What Troopers did you get under you? Did you engage any to ſerve under you?

Capt. *Blair.* What? I my ſelf, Sir, Do you mean?

*Mr. Attorn. Gen.* Yes, I do.

Capt. *Blair.* Yes, Sir, I did.

*Mr. Att. Gen.* Can you name any of them?

Capt. *Blair.* Yes, if I make uſe of my Paper.

*Mr. Sol. Gen.* You may make uſe of your Paper to refreſh your memory.

Capt. *Blair.* There is a Paper of Names that I gave in before the Council.

*L. C. J. Holt.* Mr. *Baker*, have you his Paper there? let him ſee it to refreſh his memory.

Mr. *Baker.*

Mr. *Baker.* I have none of the Papers, my Lord, they are all ſent before the Council.

*Mr. Attorn. Gen.* Pray, Sir, can you tell who was to have been your Lieutenant in your Troop.

Capt. *Blair.* One Mr. *Bertram.*

Mr. *Mountague.* You ſay, Sir, you were conſtituted Lieutenant Colonel; pray, who conſtituted you, and made you ſo?

Capt. *Blair.* I had only a promiſe of it from Sir *John Freind.*

*Mr. Attorn. Gen.* Pray did you lay out any Moneys for Sir *John Freind?* or did he ever pay you any Money afterwards?

Capt. *Blair.* Yes, I have had ſeveral ſmall Sums of Money from Sir *John Freind?*

*Mr. Attorn. Gen.* Pray what was it for?

Capt. *Blair.* It was to Drink with the men that belonged to the Regiment, and Encourage them.

*Mr. Attorn. Gen.* Pray did Mr. *Piggott* pay you any Sums of Money; and by whoſe order?

Capt. *Blair.* Yes, he paid me firſt 20 *l.* and afterwards he paid me another 20 *l.*

*Mr. Attorn. Gen.* By whoſe Order was that, Sir?

Capt. *Blair.* It was by the Order of Sir *John Freind.*

*Mr. Attorn. Gen.* Pray, Sir, how do you know that Sir *John Freind* ordered him to pay it you?

Capt. *Blair.* Becauſe it was the Money that *Piggott* had received to repay Sir *John Freind,* what he had advanced for the furthering of *Parker's* Eſcape out of the *Tower.*

*Mr. Attorn. Gen.* How do you know that he advanced any Money for procuring *Parker's* Eſcape?

Capt. *Blair.* He told me ſo himſelf.

*Mr. Attorn. Gen.* How much did Sir *John Freind* ſay he had advanced for that purpoſe?

Capt. *Blair.* He told me 100 *l.*

*Mr. Attorn. Gen.* How did he tell you he was to be paid it again?

Capt. *Blair.* He told me that King *James* ordered the payment of it at *France,* when *Piggott* went over, which was immediately afterwards; and I had of that, firſt 20 *l.* and afterwards 20 *l.* by the order of Sir *John Freind.*

*Mr. Sol. Gen.* Pray, Sir, did Sir *John Freind* tell you what *Piggott* had received in *France?*

Capt. *Blair.* Yes, he ſaid *Piggott* had received 100 *l.* in *France;* and he did not pay it him, but if I could get 20 *l.* of him, he would allow it.

*Mr. Attorn. Gen.* Pray about what time was it that the firſt 20 *l.* was received?

Capt. *Blair.* I have ſet it down in my Paper; there it is.

*Mr. Attorn. Gen.* But can't you tell about what time it was.

Capt. *Blair.* It was about laſt *May,* or *June,* the firſt 20 *l.* was paid.

*Mr. Attorn. Gen.* When was the laſt 20 *l.* paid?

Capt. *Blair.* It was after I was ſick about *Michaelmas.*

Mr. *Cowper.* Pray, Sir, who was by when the laſt 20 *l.* was paid.

Capt. *Blair.* Mr. *Piggott* paid me the laſt 5 *l.* of it, (for I received it at ſeveral Payments from Mr. *Piggott*) but the laſt 5 *l.* was before Sir *John Freind* at *Jonathan's* Coffee-Houſe.

*Mr. Sol. Gen.* Pray do you know any thing of Sir *John Freind's* receiving any Letter from King *James.*

Capt. *Blair.* Yes, he told me he had a Letter from King *James?*

*Mr. Sol. Gen.* How long ago was that?

Capt. *Blair.* Truly, I can't tell.

*Mr. Sol. Gen.* I don't ask you the preciſe Day, but was it within a Twelvemonth?

Capt. *Blair.* Yes, I believe it might be thereabouts.

*Freind.* My Lord, I deſire he may ſpeak out, for I don't hear half he ſays.

*L. C. J. Holt.* Repeat it to him again.

Capt. *Blair.* Sir, you told me you had received a Letter from King *James.*

*Freind.*

*Sir John Friend.* My Lord, I ſhall anſwer to this all afterwards.

*Mr. Sol. Gen.* Pray, had you at any time any Diſcourſe with Sir *John Friend* about one *Slater*?

*Capt. Blair.* Yes, I had

*Mr. Sol. Gen.* Pray tell what that was.

*Capt. B.* He told me he was to bring him in ſeveral Officers; and that he had intended to make two Lieutenant-Colonels, whereof Captain *Slater* was to be one; but when he ſaw I was not ſatisfy'd with that, he ſaid he ſhould Command a Troop of Non-ſwearing Parſons, and they ſhould be an Independent Troop.

*Mr. Sol. Gen.* You ſay that *Slater* was to Command that Troop.

*Capt. B.* Yes, and it was to be an Independant Troop.

*Mr. Att. Gen.* I think you ſay that he and you met at *Jonathan's* Coffee-houſe.

*Capt. B.* Yes, we did ſo.

*Mr. Att. Gen.* Pray what Diſcourſe had you there?

*Capt. B.* I called him aſide, and deſired to ſpeak to him; and it was when Mr. *Fiſher* told me of this Plot, and deſired me to ſpeak to him, a little before this horrible Conſpiracy broke out. And I told him what I heard from *Fiſher*, and from *Harriſon* the Prieſt about it; and he told me that he had heard of it, and he was afraid it would ruine King *James*, and his Affairs.

*Mr. Att. Gen.* What was it that you told him you had heard?

*Capt. B.* This laſt horrid thing, the Conſpiracy againſt the King's Life.

*Mr. Cooper.* Was it before it broke out that he told you he knew of it?

*Capt. B.* Yes, It was ſhortly before it broke out.

*Mr. Att. Gen.* Pray did you meet with him again, and did he carry you in his Coach at any time?

*Capt. B.* Yes, he did, Sir.

*Mr. Att. Gen.* What Diſcourſe had you then, when you was with him in the Coach?

*Capt. B.* He took me in his Coach to St. *Martins Legrand*, and, ſays he, I will do nothing till the *Thoulon* Fleet meet with the *Breſt* Fleet; at that time perhaps we ſhall be all taken up; but, ſays he, you may ſculk about the Town better than I can; and therefore I'll keep my ſelf private; and we muſt be as good Husbands of our Money as we can; for Money will be very ſcarce. What do you think you ſhall need, ſays he? Truly, Sir, ſays I, I can't tell; that muſt be according as I am mounted. For I found I had a few Indigent Officers at that time.

*Mr. Att. Gen.* Pray what were you to doe?

*Capt. B.* We were to ſculk up and down; and when he asked me what Money I ſhould need, I told him I could not tell; for there were ſeveral Indigent Officers, moſt of which begg'd at that time; and here is a Letter that I had from Sir *John Friend*, to confirm my receiving Money from him.

*Mr. Att. Gen.* Is that Sir *John Friend's* own hand?

*Capt. B.* Yes, Sir, it is.

*Mr. Att Gen.* Then put it in, give it hither. *(It was delivered in to the Attorney-General.)*

*Mr. Sol. Gen.* Pray what have you heard Sir *John Friend* ſay of Sir *John Fenwick's* being concern'd in this matter?

*Capt. B.* I heard him ſay, that he believed, that he ſhould command the Party that he was ingaged in, and that Sir *John Fenwick* had Four Troops of Horſe, that lay near *Reading* to be imployed.

*Mr. Sol. Gen.* For what purpoſe.

*Capt. B.* To be in readineſs upon the Deſcent.

*Sir John Friend.* Gentlemen of the Jury, I can't hear a word, I hope you hear.

*Mr. Att. Gen.* Pray Sir look upon that Letter; you ſay you had that Letter from Sir *John Friend*, pray who is that *H* that is mentioned in it?

*Capt. B.* It means *Harriſon*, alias *Johnſon* the Prieſt.

*Mr. Att. Gen.* Pray, what was that Letter written for?

*Capt. B.* It was about the laſt 20 *l.* that I was to receive from *Piggot*.

*Mr. Att. Gen.* Is that Sir *John Friend's* hand?

*Capt. B.* Yes, I think ſo

*Mr. Att. Gen.* Have you ſeen Sir *John Friend* write?

*Capt. B.* Yes, I have ſeen him write, and I think it is the ſame hand.

*Mr. Att. Gen.* Then we deſire it may be read.

*Then a Juryman deſired, he might be ask'd whether he did ſee Sir* John Friend *write that Letter.*

*L. C. J. Holt.* What ſay you, did you ſee him write that Letter?

*Capt. B.* No, my Lord; it came to my Lodging.

*Mr. Att. Gen.* Did ever he own to you he had writ you ſuch a Letter?

*Capt. B.* Yes, he did?

*Mr. Att. Gen.* Pray let it be read; read it all, for it is but ſhort.

*Cl. of Art.* (Reads) *For Capt.* Blaire, *Theſe.*

Tueſday *Morning.*

SIR,

*YOU may much wonder you have not receiv'd an Anſwer of Yours before now. I have been afflicted with the Gout in my hand and foot that I have not been able to put Pen to Paper; (I thank God) I am ſomewhat better, and do hope to be in* London *a* Thurſday *next, about the hour of Twelve, at* Jonathan's *Coffee-houſe, if the Weather do not prevent me; if it do, I ſhall not come before* Monday *following: I do deſire you for to meet me about that hour, for its not convenient for to write a Note to Mr.* H. *for ſome Reaſons I ſhall give you, when I ſee you. I wiſh you good Health.* I am, Sir,

Your Affectionate Friend, and Servant,

*John. Friend.*

*Juryman.* Pray, Sir, what Date is it of?

*Cl. of Arr.* It has no Date, but *Tueſday* Morning.

*Mr. Att. Gen.* Did Sir *John Friend* meet you on the *Thurſday*, according to this Letter?

*Juryman.* My Lord, I deſire he may be ask'd, How this Letter came to him, whether by the Penny-poſt, or how?

*Capt. B.* I don't know, I believe it was by a Porter: It came firſt to me when I was in Bed, and my Wife brought it up to me.

*Mr. Att. Gen.* Pray, Sir, anſwer my Queſtion. Did Sir *John Friend* afterwards meet you at *Jonathan's Coffee-Houſe*, according to this Letter?

*Capt. B.* Yes, Sir, he did.

*Mr. Att. Gen.* And did you there ſpeak about the Buſineſs that's contained in that Letter?

*Capt. B.* Yes, Sir, and accordingly I had the Order.

*Mr. Att. Gen.* What Order?

*Capt. B.* An Order for the 20 *l.*

*Mr. Soll. Gen.* Capt. *Blaire*, Do you remember that you dined with Sir *John Friend*, near the *Exchange*, in *January* laſt?

*Capt. B.* Yes, I think, I did, Sir.

*Mr. Soll. Gen.* What Diſcourſe was there between you then? Who was with you beſides you Two?

*Capt. B.* I muſt refer that to my Paper.

*Mr. Sol. Gen.* Well then, What Diſcourſe was between you and Sir *John Friend* there?

*Capt. B.* It is down in my Paper.

*Mr. Soll. Gen.* Do you know one Captain *Ridley*?

*Capt. B.* Yes, Sir.

*Mr. Soll. Gen.* Was he at any time preſent, when you, and the Priſoner at the Bar were together.

*Sir John Friend.* My Lord, I cannot hear a Word he ſays.

*L. C. J. Holt.* Here is a great Noiſe indeed, and he it ſeems is not well and ſpeaks but low; pray order Silence in the Court. (*Which was done by Proclamation.*)

*L. C. J. Holt.* Look ye, Sir *John Friend*, he ſpeaks of a Letter that you ſent to him, that bears date ſome *Tueſday* Morning, that you would be in Town, and meet him at *Jonathan's Coffee-Houſe* upon *Thurſday* following, at Twelve a Clock;

Clock; and that Letter was read, and he ſays he met you accordingly, and there was Order taken for the Payment of the laſt 20 *l.* This is that he ſays, Did you hear it?

*Sir John Friend.* No, my Lord, I did not.

*L. C. J. Holt.* That is what he ſaid. Then go on: You ſay he met you at *Jonathan's Coffee-Houſe* according to that Letter.

*Capt. B.* Yes, my Lord.

*L. C. J. Holt.* What was done there when you met?

*Capt. B.* Nothing but the Order.

*L. C. J. Holt.* Who did he give the Order to?

*Capt. B.* He gave the Order to *Harriſon.*

*L. C. J. Holt.* Why, was *Harriſon* there?

*Capt. B.* Yes, he came there before I came away.

*L. C. J. Holt.* But you ſay he gave the Order to *Harriſon?*

*Capt. B.* Yes, my Lord.

*L. C. J. Holt.* What was the Order for?

*Capt. B.* It was to pay me that Money.

*L. C. J. Holt.* What Money was that?

*Capt. B.* It was the laſt 20 *l.*

*Mr. Att. Gen.* Was the 20 *l.* paid you afterwards.

*Capt. B.* Yes, Sir.

*Mr. Att. Gen.* Who paid it?

*Capt. B.* Mr. *Piggot*, he paid me the laſt 5 *l.* of it before Sir *John Friend's* Face.

*L. C. J. Holt.* Was this the firſt 20 *l.* or the laſt, do you ſay?

*Capt. B.* It was the laſt.

*L. C. J. Holt.* What was this Money paid for?

*Capt. B.* I believe it was to ſupport me, to go about the Buſineſs of the Regiment.

*L. C. J. Holt.* You believe, that's not enough; But are you ſure it was ſo?

*Capt. B.* Yes, I am ſure it was for that.

*L. C. J. Holt.* Had you ever demanded Money of him before?

*Capt. B.* Yes, I had.

*L. C. J. Holt.* For what was that Money that you demanded?

*Capt. B.* It was to drink with the Men that were brought in; to cheriſh, and keep them together.

*L. C. J. Holt.* To what purpoſe were thoſe Men kept together?

*Capt. B.* They were for his Regiment.

*Mr. Soll. Gen.* Pray, had Sir *John Friend* any occaſion to pay you any Money upon any other Account?

*Capt. B.* No, Sir, not out of that 100 *l.*

*Mr. Cooper.* You do not underſtand the Queſtion; Had you any Dealings with Sir *John Friend*, but about this Matter concerning the Regiment?

*Capt. B.* No, never in all my Life.

*Mr. Att. Gen.* Well, Sir, do you remember your Meeting with Sir *John Friend* when one *Ridley* was there.

*Capt. B.* Yes, it was at the Chop-Houſe.

*Mr. Att. Gen.* Give an Account what paſt there.

*Capt. B.* Mr. *Ridley* ſaid, A Gentleman was lately gone over to *France*, about Ten Days before; and Mr. *Ridley* ſaid, he was a very ſenſible Gentleman, a Roman Catholick, an ancient Man, about Threeſcore Years of Age; what he was, I can't tell: He ſaid, he believed he ſhould bring the laſt Orders.

*Mr. Att. Gen.* What did Sir *John Friend* ſay?

*Capt. B.* Sir *John Friend* ſaid, He knew of it; but he named no more.

*Mr. Soll. Gen.* What was the Effect of thoſe Orders, as you underſtood?

*Capt. B.* I cannot tell that, Sir, indeed.

*Mr. Soll. Gen.* Did you know Mr. *Chernock?*

*Capt. B.* Yes, Sir, I did.

*Mr. Sol. Gen.* What do you know of his going to *France.*

*Capt. B.* I met him upon the *Exchange* the laſt Summer, and I told him, I expected not to have ſeen him here at that time, I thought he had been abroad; he

he told me he was come from *France*; but who ſent him I cannot tell, I doe not know upon my life.

*Mr. Sol. Gen.* Pray what has Sir *John Friend* ſaid to you about *Ferguſon*? whether was not he to have been an Officer in his Regiment?

*Capt. B.* No: But Sir *John Friend* ſaid, he would Joyn, and Mr. *Ferguſon* himſelf has told me ſo.

*Mr. Att. Gen.* When did he tell you ſo?

*Capt. B.* A good while ago.

*Mr. Att. Gen.* How long ago?

*Capt. B.* Two Year ago and above.

*Mr. Sol. Gen.* Did Sir *John Friend* tell you any thing about *Ferguſon*, that he would bring in any Men?

*Capt. B.* Yes, he ſaid he would bring in a great many.

*Mr. Att. Gen.* Will the Priſoner ask him any Queſtions?

*L. C. J. Holt.* Sir *John Friend*, will you ask this Witneſs any Queſtions?

*Sir John Friend.* Yes, my Lord, I ſhall by and by, if they have done with him.

*L. C. J. Holt.* Yes, they have done with him.

*Then he pauſed, and peruſed his Papers.*

*Sir John Friend.* Firſt, as to the Commiſſion you charge me with, that I ſhould receive a Commiſſion from King *James*; I deſire to know, whether it was ſigned, or ſealed, and what Date it was?

*Capt. B.* I cannot tell the Date indeed, Sir *John*; for I never thought to come in here upon ſuch an Account as this: But I think it was in Paper, ſigned above *James Rex*, and below, By his Majeſties Command, *Melford*; and a little Seal upon the Margent.

*Sir John Friend.* This is the hardeſt thing in the World upon a Man, here you have charged me with Money to Subſiſt and Incourage Soldiers.

*Capt. B.* Yes Sir.

*Sir John Friend.* I would only ſay this, you were Recommended to me for a very Honeſt Man, and you have come to me ſeveral times, and told me, Sir, My neceſſities are very great, I am ready to Starve, I have a great Charge; for God's ſake will you be pleaſed to beſtow ſomething upon me, to relieve my Neceſſities. It's true, I have given you Money ſeveral times, but I never gave it for any other uſe but Charity; God knows my heart. I deſire you, to conſider with your ſelf and Anſwer it. There is a God above where you muſt give an Account as well as I, and I hope you will conſider of it. Pray declare the truth, Whether you have not writ thoſe lines to me ſeveral times, that you were ready to Starve, and beg'd of me to relieve your Neceſſities?

*Capt. B.* I have ſo, Sir, I acknowledge it?

*Sir John Friend.* Pray take me right, and was not that Money I gave You, only upon pure Charity?

*Capt. B.* Yes, you did give me Charity, but I had expended ſo much Money in your Buſineſs, that reduced me to that, God knows my heart. I have laid out many a Pound upon this Affair.

*Sir John Friend.* It is the hardeſt thing in the World, this is a Roman Catholick too.

*Capt. B.* I am ſure it coſt me many a Pound more than ever I had of you.

*Sir John Friend.* You ſay you Liſted a great many Men, who were the Men? What are their Names? what were they For?

*Capt. B.* I have given a Liſt in of them to the Council.

*Sir John Friend.* Who are they? for God knows I know nothing of them.

*L. C. J. Holt.* If you have a Liſt there, let it be produced.

*Capt. B.* I gave it in to the Council; and Sir *John* I brought in ſeveral Officers to you.

*Mr. Att. Gen.* Remember, and name as many as you can.

*Capt. B.* I have named the Officers already.

*Mr. Att. Gen.* Name them again.

*Capt. B.* Did not I bring Capt. *Fiſher* to you, and did not you promiſe to make him your Eldeſt Captain?

*Sir John Friend.* No, you never did.

*L. C. J. Holt.*

*L. C. J. H.* Theſe are Queſtions of your own asking, ſo you muſt hear him.

Capt. *B.* I brought Capt. *Fiſher* to you, and accordingly we Dined at Capt. *Simons's*, and there was Capt. *Ridley*, Mr. *Richardſon*, and Mr. *Fiſher* and you talk'd together, and you liſtned to him, and in my own hearing you promiſed he ſhould be eldeſt Captain, upon Condition, that he would bring in a Troop; and this is true, ſo help me God.

*Friend.* Pray where are your Men? and what are your Men that you Liſted?

Capt. *B.* I never ſpoke of Liſting, I only ſpoke of Encouraging.

*Friend.* Did not you ſay you had Liſted a great many Men for to be of my Regiment?

Capt. *B.* No, Sir, I did not.

*Mr. Att. Gen.* I think you do miſtake, Sir *John*, he did not ſay Liſt.

Capt. *B.* I had Money from you upon the account of Encouraging, and Treating, and Drinking with a great many of the Men: And you ſaid it was impoſſible to keep them together, but that I muſt have Money to Treat them, and Drink with them; but you deſired me to be as good a Husband as I could.

*Friend.* I never ſaid ſo, theſe are very hard things upon me.

Capt. *B.* Did not I bring Capt. *Cole* and Capt. *Neale* to you, and his Brother-in-Law Mr. *Robinſon*, and Mr. *Gellibrand*? and did not we Dine together?

*Friend.* I know nothing of all this, I declare to you.

*L. C. J. H.* If you will ask him any more Queſtions, doe.

Capt. *B.* I brought thoſe three Gentlemen, and we Dined together.

*L. C. J. H.* Where did you Dine then?

Capt. *B.* At *Hackney*, when Sir *John* lived there, at his own Houſe.

*Friend.* When was it?

Capt. *B.* It is above a year ago. Pray, Sir *John*, don't think to daſh me out of Countenance, tho' I am very ill; I ſpeak nothing but the truth, and therefore I will not be daſht out of Countenance. You know what I ſay to be true; you then drank a Glaſs of Wine to Capt. *Cole*: And did not you promiſe him, becauſe he was one of your Mothers Name, that he ſhou'd have a Place in the Exciſe next one of the Commiſſioners. Says I, Sir *John*, what will you give me? O, ſays he, you ſhall have the Regiment, Man. This was before *Robinſon*, his Mother-in-Law, and Mr. *Gellibrand*.

*L. J. C. H.* Who was to have the Place in the Exciſe? Capt. *B.* Captain *Cole*.

*Friend.* I know not a word of all this.

*Mr. J. Rokeby.* Capt. *Blair*, be not daſhed, but ſpeak the truth, and you need fear nothing.

Capt. *B.* This I ſay, was before Mr. *Robinſon* and Mr. *Gellibrand*.

*Friend.* I don't know *Gellibrand*, nor none of them.

*L. J. C. H,* Was that *Cole* to be any thing in the Regiment?

Capt. *B.* Yes, he was to have been a Captain, and to bring in a Troop.

*Mr. Att. Gen.* Sir *John*, will you ask him any more Queſtions?

*Friend.* No, I muſt depend upon the Jury, for I cannot remember half what he has ſaid.

*Mr. Sol. Gen.* Do you remember any Diſcourſe between you and him, about ſome brisk Men that were to follow him?

*L. C. J. H.* But before you ask him, Mr. Solicitor, we muſt know whether he will ask him any more Queſtions, for he is now his Witneſs. Do you ask him any more Queſtions, Sir *John*? *Friend.* I can ask about no more then what I hear.

*L. C. J.* H. But ask him what you will.

*Friend.* My Lord, I have not heard half of what he has ſaid, I hope the Jury will take care in it.

*L. C. J. H.* Some part of it was twice repeated to you.

*Friend.* As to that, my Lord, I would ask him a Queſtion or two. Was that my Letter? Capt. *B.* Yes, it was.

*Friend.* Did you ſee me write it?

Capt. *B.* No, it came to my hands by a Porter, as I believe, when I was in Bed, my Wife brought it up to me.

*Friend.* What was that Letter for?

Capt. *B.* In order to pay the laſt 20*l.* and I did ſee a Return of a Letter that you Writ to King *James*.

Mr. *Att. Gen.* Who ſhewed you that Letter to King *James*?

Capt *B.* He ſhew'd it me himſelf.

*L. C. J. Holt.* How long ago is that?

Capt. *B.* A Year, and a half ago, as near as I can Remember.

*L. C. J. Holt.* Did he ſay any thing of an Anſwer he had to it.

Capt. *B.* Yes, but I cannot Remember what it was Directly.

*Juryman.* He was pleaſed to ſay he ſaw a Letter from King *James*.

*L. C. J. Holt.* No, No, Sir, it was a Letter to King *James*.

*Juryman.* My Lord, I deſire he may be asked, if he knows the Contents of that Letter?

*L. C. J. Holt.* Did you ſee him write the Letter, or did he ſhew you the Letter he had Writ?

Capt. *B.* I did not ſee him write the Letter, I ſee his hand to the Letter, and he ſhew'd me the Letter, that he ſaid he had written to King *James*; and there is this particular paſſage to Confirm it, it was at Mr. *Piggot's* Mothers houſe; I dined with him there that Day, and when he ſhew'd me the Letter, I told him I was ſo well pleaſed with the Penning it, that I believed Mr. *Ferguſon* had a hand in it; and he was very angry, that I ſhould think, he was not able to write, and did not write the Letter himſelf.

*Juryman.* My Lord, ſince it ſeems, he peruſed the Letter, I deſire he may be asked, whether he can Remember the Contents of that Letter, or any of it?

Capt. *B.* Really, my Lord, I cannot tell that particularly: but I am apt to think it was about the buſineſs of the King, and about the Regiment.

*L. C. J. Holt.* Can you tell truly any the Contents of it?

Capt. *B.* That it was about the affaires of the Regiment, I am poſitive.

Mr. *Cowper.* My Lord, before he goes away (that the Jury may not go away with a miſtake,) I deſire it may be Obſerved, he does not ſay, he ſaw Sir *John Friend*, write the Letter.

*L. C. J. Holt.* No, no, but that he ſhew'd it him himſelf.

*Friend.* When was that Letter writ that I ſhew'd to you?

Capt. *B.* It was about a Year and a half ago.

*Friend.* I declare in the preſence of God, I never writ one.

*Jurym.* He ſayes you ſhew'd him the Letter, therefore it is very fit we ſhould ſee it.

*L. C. J. Holt.* Nay, Sir you muſt not talk to the Priſoner; if you have any Queſtions to ask, you muſt propoſe them to the Court.

*Friend.* I declare in the preſence of God, I never writ any ſuch Letter, as this that he now charges me with.

Capt. *B.* And I declare in the preſence of God you ſhew'd me ſuch a Letter.

*Friend.* Yes, you may, but I am a Proteſtant, you are a Papiſt, you may do any thing.

Mr. *Att. Gen.* You may ask any Queſtions of him, Sir *John*, but you muſt not rail at the Witneſs.

*Friend.* But when you charge me with the Writing of a Letter to King *James*, I ought to ſpeak to it. It ſeems I am not to ask, whether he is a *Papiſt*.

Mr. *Att. Gen.* He ſays you ſhew'd him a Letter, that you ſaid you had Written to King *James*, which he Read, and liked the Penning of it ſo well, that he thought *Ferguſon* had a hand in it; at which you were offended that he ſhould think you could not write ſuch a Letter your ſelf.

*Friend.* I declare in the preſence of God I never writ any ſuch Letter.

Mr. *Att. Gen.* I ſuppoſe you'l diſprove him by and by.

*Friend.* I can have no Witneſſes to this matter.

Mr. *Att. Gen.* And you can't expect your own Denyal ſhould go for proof. If you will ask him no more Queſtions, let him go down, and eaſe himſelf.

*Friend.* He muſt not be askt whether he is a *Papiſt*, but I hope you'l take notice, Countrymen, that theſe Witneſſes are *Papiſts*, and they think they merit Heaven by ſwearing againſt Proteſtants, whom they call *Hereticks*.

*L. C. J. H.* Indeed, Sir *John*, I Don't hear you: pray ſpeak ſo loud that the Court may hear what you ſay.

*Frind.* I will, my Lord; I ſay he is a Roman Catholick, and I have Witneſſes to ſwear he is ſo, and Deſire I may prove that he is a Roman Catholick, and therefore he is not to be heard againſt a Proteſtant.

Mr. *Att. Gen.*

Mr. *Att. Gen.* Then the next Witneſs we call is Mr. *Bertram* (who was ſworn)

*Friend.* But I have not done with Mr. *Porter.*

*L. C. J. H.* Well, you ſhall have him by and by, let the Kings Councel go on in their Method.

Mr. *Att. Gen.* Pray Mr. *Bertram* do you know Capt. *Blair* that was here juſt now?

*Bertram.* Yes.

Mr. *Att. Gen.* How long have you Known him?

*Bertram.* About Eight or Nine Years.

Mr. *Att. Gen.* What diſcourſe have you had with him about any Regiment that was to be raiſed for the late King *James.*

*Bertram.* Capt. *Blair* had told me for two Years laſt paſt that Sir *John Friend* was to have a Regiment of Horſe, that were to be raiſed, and lye poſted about the Town, and Capt. *Blair* was to be the Lieutenant-Colionel to the Regiment, and I was to be Leiutenant to Captain *Blair* in his Troop.

Mr. *Att. Gen.* My Lord, we only call him to Confirm what Captain *Blair* has ſaid that he was to be his Leiutenant, and that this was talked of two Years before. Did he tell you Sir *John Friend* was to have a Regiment of Horſe?

*Bertram.* Yes Sir, and he Oblidged me to bring in as many Men, and Horſes as I could into this Regiment, and he told me Captain *Fiſher*, Captain *Vernatti*, and Captan *Cole* were to be Captains in the Regiment.

*L. C. J. H.* And what were you to be?

*Bertram.* A Lieutenant.

*L. C. J. H.* To whom?

*Bertram.* To Captain *Blair*; he has told me ſo ſeveral times, and talked to me about the affairs of the Regiment; a great Deal that I cannot now Remember relating to that purpoſe.

*L. C. J. H.* This is no Evidence againſt Sir *John Friend*; he is only called to Confirm the teſtimony of Captain *Blair*; that *Blair* ſpoke of it long before he gave his Evidence, and ſo it is not a new thing now Invented by him.

Mr. *Sol. Gen.* Sir *John Friend* did ask what Men he had Ingaged, and among others he named this Mr. *Bertram* to be his own Lieutenant, and he now tells you *Blair* promiſed him ſo to be two Years ago, and then told him Sir *John Friend* was to have a Regiment.

*Friend.* Do you know me Sir?

*Bertram.* No, Sir, I never was in your Company in my Life, I only tell you what I have heard from Captain *Blair*, I do not Know that ever I ſaw your face.

*L. C. J. H.* His Evidence Sir *John Friend* hurts you not, as to any particular thing that he Knows againſt you, he is only brought to Confirm what Captain *Blair* ſaid, that he was to be his Lieutenant in his Troop,

M. *Att. Gen.* Then, my Lord, we leave it here.

*L. C. J. H.* Look ye Sir *John Friend*, the Kings Councel have done, and now you may ſpeak, and ſay what you have a mind to ſay in your own Defence.

Mr. *J. Rok.* And call what Witneſſes you have a mind to call.

*Friend.* My Lord, In the firſt place, I deſire to Know whether Mr. *Courtney* is come.

*L. C. J. H.* Your Solicitor can beſt tell that.

*Friend.* I perceive he is not come.

*L. C J. H.* Well go on: I ſuppoſe he will not be long before he comes, we will ſtay for him.

*Friend.* My Lord, I muſt wait for my Witneſs: But in the mean time, as to Mr. *Porter*'s Evidence. I own I was at the meeting at the *King*'s *Head* in *Leaden Hall Street*; I declare I was at that place, and there were ſome Gentlemen there, but how many or whom I cannot ſay, but I Declare, there was not one word ſpoken there of any raiſing of men, nor any thing of that nature, that he ſpeaks of, but only we were Drinking a Glaſs of Wine, and eating a Diſh of meat together, and Sir *John Fenwick* at that time comming in ſaid to us, I Deſire you to come to our end of the Town, and take a Diſh of meat with us. And there was nothing ſpoke of any thing relating to the Government. Gentlemen theſe are Papiſts, and I am a Proteſtant, they Don't care what they ſay, for they think they merit Heaven by Deſtroying Proteſtants; and they are not to be believed, and that is the reaſon that I was not to ask them the Queſtion, for by Law they are not Witneſſes, and for that I appeal to your Lordſhip.

*L. C. J H.*

*L. C. J. H.* Why are they not Witneſſes? *Fri.* Nay I appeal to your Lordſhip.

*L. C. J. H.* Truely I think they are Witneſſes, I know nothing to the Contrary.

*Fri.* My Lord, Papiſts are not good Witneſſes againſt Proteſtants for this reaſon, ha t I ſhall tell you I am adviſed, my Lord, that a Papiſt is not a good Witneſs to prove a Proteſtant a Traytor within the *Stat.* of 25. of *Ed.* 3.

*L. C J. H.* Who ſays ſo?

*Friend.* My Lord, I Deſire to know whether there is ſuch a Statute?

*L. C. J. H.* Yes, no Doubt of it, there is ſuch a Statute as that of the 25. *Ed.* 3. about Treaſons.

*Friend.* Pray, my Lord, does not that make it ſo?

*L. C. J. H.* No indeed, I know no ſuch thing.

Mr. *Sol. Gen.* That cannot be, my Lord, that any ſuch thing ſhould be, for all were Papiſts then, there was no ſuch thing as a Proteſtant in the time of *Ed.* 3.

*Friend.* My Lord, there is the Statute of the third of *James* the firſt. *Cap.* 4*th.* and other Statutes made in the time of King *Charles* the ſecond, particularly in the 30*th.* Year of his Reign. *Cap.* 2*d.* Whereby it is plain they are not to be believed againſt Proteſtants, becauſe they believe them Guilty of Damnable *Hereſie*; and by thoſe Statutes they are reputed Infamous.

*L. C. J.* Where is your Statute.

*Friend.* My Lord, I have no Statute-Book, I deſire it may be Inquired into, this adviſe was given me by my Lawyer, I am no Lawyer my ſelf, there is the Statute of 3. *James* the firſt *Cap.* 4. and the next is 30. *Car.* 2. *Cap.* 2.

*L. C. J. Holt.* Well the Statute-Book ſhall be looked into.

*Friend.* My Lord, the perſon is not come, who is to give Evidence againſt Capt. *Blair*, the principal Witneſs, he is a Priſoner at the *Gate-houſe*, and your Lordſhip was pleaſed to ſay you would have patience till he came.

*L. C. J. Holt.* Yes, yes, we will ſtay a while.

*Friend.* I pray my Lord do, for it will be very material for me.

*L. C. J. Treby.* Have you any thing to fill up the time with in the mean time.

Then *William Courtney* Appeared.

*L. C. J. Holt.* Is your Sollicitor Returned with this *Habeas Corpus.*

*Friend.* I believe he is in or about the Court, but I cannot get him to me the Crowd is ſo great.

After much ado *Courtney* came in.

*L. C. J. Holt.* Is this the Witneſs you wou'd have?

*Friend.* Yes, my Lord, it is.

*L. C. J. Holt.* Then what do you ſay to him?

*Friend.* My Lord, muſt I ask him the Queſtions?

*L. C. J. Holt.* Yes you muſt propoſe your Queſtions to the Court, and they will ask them of the Witneſſes. If this be the Perſon you ſpeak of you had beſt examine him.

*Friend.* Mr. *Courtney* I deſire you would ſpeak what you know of Capt. *Blair.*

*Courtney.* Gentlemen, I have been a Priſoner in the *Gate-houſe* about a Month, and while I was there Capt. *Blair* at the ſame time came in as a Priſoner, as mentioned in the Proclamation; being my old Acquaintance, (I was in Bed being in upon ſome other accounts) and when they told me Capt. *Blair* was brought in, I deſired him to come into my Chamber. I told him I was ſorry to ſee him there, I told him I hoped he was none of thoſe concerned in this Plot; he ſaid he was in the Proclamation, but that he was Innocent, and knew nothing of the Plot, nor of the Aſſaſſination, nor any thing like it; there was ſeveral other perſons in that place at the ſame time, and he ſaid he was as Innocent as the Child unborn.

*Friend.* Did he mention any thing of me then?

*Courtney.* At that time he ſaid nothing of you.

*Friend.* Pray Sir do you believe he is a *Roman Catholick?*

*Courtney.* I do not know his Religion indeed.

*Friend.* But don't you know him to be a *Roman Catholick?*

*Courtney.* He bore the Character of one, but I never ſaw him at any Church.

Mr. *J. Rokeby.* Pray Sir how long have you known Capt. *Blair?*

*Courtney.* By ſight, I have known him 6 or 7 Years.

Mr. *J. Rokeby.*

*Mr. J. Rokeby*, Pray upon what account did you call him Captain?

*Courtney*, It was a common Name among all the Company: he was called ſo.

*L. Ch. Juſt. Holt*, What, all the time that you knew him?

*Courtney*, Yes, all the time that I knew him, I knew no other Name that he had.

*Friend*, But did not you hear that he was reputed to be a Roman Catholick?

*Courtney*, Yes, I have heard that Character of him, among thoſe that I have known, but I have very little knowledge of his Religion.

*L. Ch. Juſt. Holt*, Is this what you can ſay?

*Courtney*, There are ſeveral others that were witneſſes of this, as well as I; I never ſaw you, Sir *John Friend*, before in my Life, to my knowledge, nor ever ſpoke to you.

*Friend*, Sir, a Note was ſent to me, that you could do me ſome Service, and that was the reaſon I ſent for you. I deſire Mr. *Carpenter*, Mr. *King*, and Mr. *Payne* may be called.

*L. Ch. Juſt. Holt*, Have you done with this Man then?

*Friend*, Do you know Captain *Porter*, Sir.

*Courtney*, Yes, I do, Sir?

*Friend*, Sir, do you know him to be a Roman Catholick.

*Courtney*, Sir, I have heard that he has ſuch a Character.

*L. Ch. Juſt. Holt*, What Character has he?

*Courtney*, That he is a Roman Catholick.

*L. Ch. Juſt. Holt*, That's only by hear-ſay.

*Friend*, My Lord, I have done with this Man.

*L. Ch. Juſt. Holt*, If you have done with him, then the Keeper may carry him back again.

*Courtney*, Sir, I have ſomething elſe to ſay.

*Friend*, My Lord, he ſays he has ſomething elſe to ſay.

*L. Ch. Juſt. Holt*, Then ſet him up again, (which was done.) Well, Sir, what is it you have more to ſay?

*Courtney*, Two or three days after that time, there was a Priſoner then in the Gate-houſe, who was an Enſign in the Army, was reading the Flying-Poſt in my Chamber, and in that Flying-Poſt there was News that Captain *Blair* was making a great Diſcovery, and that he had accuſed Sir *John Friend* for having receiv'd a Commiſſion for a Regiment, in which he was to be Lieutenant Colonel, and ſaid a great deal about that Regiment, how he had receiv'd Subſiſtence Money for them from Sir *John Friend*. A little after Capt. *Blair* came into the Room, and asked me if I had got the News; I told him yes; and Captain *Blair* then askt what was the import of it? I told him it was there, that he was making a great Diſcovery, and particularly, that he was to be Lieutenant Colonel to Sir *John Friend*, and had received Subſiſtence Money from Sir *John Friend* for the Men of the Regiment. Captain *Blair* anſwered, That they might put what they would in the News, but he knew nothing of it, nor did not receive any Money; and this was a great ſurprize upon me, and upon thoſe others that heard him, when we were told he was to be the main Evidence againſt Sir *John Friend*.

*Friend*, Well, Sir, do you know any thing elſe?

*Courtney*, Captain *Blair* was bemoaning himſelf afterwards, that he went againſt his Conſcience in this thing, and his Wife told me that he was very much concerned, becauſe he was going to do this againſt his Conſcience, and ſhe was ſure it would break his Heart.

*Friend*, Do you know any thing more?

*Courtney*, And he told me in his Chamber upon *Friday* Night laſt, about Nine a Clock I came to ſee him, he lay upon his Bed very ill, and his Wife was with him; I asked him how he did, and he clapt his Hands, and ſaid he was very ill. Pray, ſaid I, what ails you? Sure you have gotten ſome very great Cold. Oh! no ſays he, Life is ſweet, I don't know what it is I ail, but were it not for Life, I ſhould never do what I do.

*L. Ch. Juſt. Holt*, Did he tell you he went againſt his Conſcience?

*Courtney*, His Wife and he ſpoke at firſt, that he went againſt his Conſcience, and he believed his Conſcience was in a miſerable State, and this I ſpoke innocently among ſome of the Priſoners, and I did not know that it was taken notice of, but it ſeems ſome Body has acquainted Sir *John Friend*, and ſo I am brought here, I know nothing of being a Witneſs, I aſſure you.

*Mr. J. Rokeby*, Pray who were preſent when this Diſcourſe was between you and *Blair*? you ſay there were two other Perſons preſent when this Diſcourſe was between you, and Captain *Blair* and his Wife, who were thoſe two Perſons?

*Courtney*, What Diſcourſe do you ſpeak of, my Lord?

*L. Ch. Juſt. Holt*, You ſaid there were two Perſons in your Chamber.

*Courtney*, Does your Lordſhip mean at the reading of the Flying-Poſt?

*L. Ch. Juſt. Holt*, Yes.

*Courtney*, My Lord, this Gentleman that I was ſpeaking off was lying down upon the Bed, and Captain *Blair* came into my Room juſt after the News was read, and askt me if I had got the News, I told him yes, he askt what was the import of it, I told him they ſaid that he was making a great Diſcovery, and particularly againſt Sir *John Friend*.

*L. Ch. Juſt. Holt*, Well, and who were there then?

*Courtney*, This Enſign that is now a Priſoner in the Gate-houſe, who I ſuppoſe can ſay the ſame thing.

*Mr. Att. Gen.* Pray my Lord, let Mr. *Blair* be called while he is here, and let him know what this Witneſs ſays, that the Court and Jury may know what he has to ſay to it.

*L. Ch. Juſt. Holt*, Yes, pray' let Mr. *Blair* be brought in again, (which was done.)

*L. Ch. Juſt. Treby*, Now let Mr. *Courtney* repeat what he ſaid now before about Captain *Blair*'s Declarations to him.

*Courtney*, My Lord, I tell your Lordſhip, there was one *Tooley* a Priſoner in the Gate-houſe, when he heard the Flying-Poſt cry'd, bought it, or it was order'd to be bought, and it being brought into my Chamber, I deſired him to read it, and I was walking about the Room; in the mean time Captain *Blair* came in, and ask'd if we had got the News; we ſaid yes; and he askt what News there was in it? I replyed, it is ſaid that you are making a great Diſcovery, that you were to be Lieutenant Colonel to Sir *John Friend*, and had receiv'd a great deal of Subſiſtence Money for the Regiment; ſays he, They may put what they will in their News, but I know of no Regiment, nor any Subſiſtence, nor of any Commiſſion. The Man that read the Book, will ſay the ſame that I do.

*Mr. Att. Gen.* When was this?

*Courtney*, This was one Day when the Flying Poſt came out, the laſt *Saturday* but one I think.

*L. Ch. Juſt. Holt*, But you talkt of ſomething he ſhould ſay to you of going againſt his Conſcience?

*Courtney*, That was upon *Friday* Night laſt, I came to ſee Captain *Blair*, and his Wife was with him, and Captain *Blair* was very ill, and clapping his Hands, and groaning, and moving himſelf, and in a very miſerable Condition, truly I thought he was giving up the Ghoſt. I askt him upon what account he was ſo ſad, and told him I thought he had got ſome great Cold; he told me no. Well ſaid I, Captain *Blair*, I underſtand you are going to morrow to *Hicks's-Hall*, and I pray God direct you. (*Says he*) ſeveral times, I pray God direct us all; Life is ſweet. Oh! ſays his Wife, Dear Sir, he would never do it, but to ſave his Life, but it goes againſt his Conſcience: So ſaid I to him, you have had the Character of an honeſt Gentleman; I hope you will ſhow your ſelf ſuch, and I pray God direct you: I wiſh no Man's Blood may lie at your Door. Says he! I am an unfortunate Man, that is the thing that troubles me, or ſomething to that purpoſe; which ſhew'd all the Remorſe of Conſcience which could be in the World. I ſpoke of this innocently among the Priſoners, and it ſeems, it was Communicated to Sir *John Friend*, and ſo I am brought here to teſtifie it.

*Mr. Att. Gen.* Pray what ſay you to this Captain *Blair*? you hear what he ſays, do you give an account what you know of it.

*L. Ch. Juſt.*

*L. Ch. Juſt. Holt*, You hear what diſcourſe he ſays he had with you, what ſay you to it?

*Cap. Blair*, My Lord, this Gentleman crowded himſelf in upon me, my Wife was with me, and he told me he had a Cup of Brandy, which would be good for me if I had a Cold. God knows my Heart, I deſired no Company might come to me. Says he, Captain *Blair*, I have heard you have been an honeſt Gentleman all along and you are going to *Hicks's-Hall* to morrow, and a great deal of ſuch Diſcourſe as that, and I pray God Almighty Direct you; That's all that I know paſt. I was very ill, very ſick, as I am far from being well now; but as for any thing of Remorſe of Conſcience, as I hope for Mercy and Salvation, I never expreſt any ſuch thing to him.

*L. Ch. Juſt. Holt*, Did your Wife ſay, that you were troubled, that you were going to do that which went againſt Conſcience, and you would not do it but to ſave your Life?

*Cap. Blair*, No, I am ſure ſhe did not.

*L. Ch. Juſt. Holt*, Did that Gentleman thruſt himſelf into your Company, or did you deſire him for to come to you?

*Cap. Blair*, No, he thruſt himſelf into the Room.

*Courtney*, The Link was hard by, and I heard *Captain Blair* groan, and ſo I went in to ſee him; every Body had acceſs to him.

*Cap. Blair*, Pray where is the Keeper?

*Keeper*, Here, I am, Sir.

*Cap. Blair*. Did not I beg of you for God's ſake, that no one ſhould come to me but my Wife?

*Mr. Att. Gen.* If the Keeper of the Gate-houſe be there pray Swear him.

*The Keeper of the Gate-Houſe was Sworn.*

*Mr. Sol. Gen.* What do you ſay as to Captain *Blair's* deſiring that no Body ſhould come to him, but his Wife?

*Keeper*, No body was to come to him unleſs they forced themſelves upon him.

*Mr. Sol. Gen.* Do you know of that Man's coming to him?

*Keeper*, No, Sir, I know nothing of it.

*Cap. Blair*, I always deſired to have the Door lockt with the Key on the inſide, that no Body might come to me but whom I had a mind to.

*Keeper*, He did ſo, becauſe he was Ill, and no Body did come to him that I know of.

*Cap. Blair*, My Wife being with me, came to me to the Bed ſide, while this Man was with me, and I was lying upon my Back; and ſaid ſhe for Chriſt Jeſus's ſake, Dear *Blair*, do not ſpeak any thing.

*L. Ch. Juſt. Holt*, When was this?

*Cap. Blair*, When this Gentlemen was with me, ſhe deſired me not to ſay any thing before him, becauſe ſays ſhe I do not know but he may be a Trepan.

*Courtney*, Upon the Word of an honeſt Man, and my Reputation is as dear to me as yours is to you, ſhe ſaid nothing of that. She told me you were going to do that which was againſt your Conſcience, and you would not do it but to ſave your Life.

*Mr. Att. Gen.* Pray, what is this Man Committed for, you Keeper?

*Keeper*, He is Committed for Suſpicion of Treaſon?

*Courtney*, I have been taken up five times upon Suſpicion, and this laſt time I was Committed to the Gate-Houſe.

*Mr. Att. Gen.* Where do you live, Sir?

*Courtney*, In Old *Southampton-Buildings*.

*Mr. Att. Gen.* How long have you lived there?

*Courtney*, I have Lodged there about Four years and an half, there are ſeveral perſons can come and give a Teſtimony of me.

*Mr. Sol. Gen.* How come you, Sir, to be brought as a Witneſs here?

*Courtney*, I was ſurprized at it: for my part what I did was by way of Pity ſeeing him in ſuch a Condition; I Pitied your Soul, becauſe you and your Wife both ſhew'd ſo much trouble and remorſe of Conſcience: as for Sir *John Freind*, I never ſaw him till to Day in all my life, that I know of.

*Mr. Att.*

*Mr. Att. Gen.* What Countryman are you, Sir?

*Courtney*, I am an *Iriſh* man born.

*Mr. Att. Gen.* Have you any Eſtate in *Ireland*?

*Courtney*, No, Sir, I have not.

*Mr. Sol. Gen.* Pray how came you to go to *Mr. Blair*?

*Courtney*, I have known him a long time; I have been often in his Company at the Coffee-houſe; I cannot ſay I am intimately acquainted with Captain *Blair*, but only as I have ſeen him in the Coffee-houſe a great many times.

*Mr. Sol. Gen.* But I ask you how you came to go to him; becauſe it ſeems he deſired no body ſhould come to him, but his Wife.

*Courtney*, He may ſay what he pleaſes; for he lay firſt in one Room, and then in an other, and he could never go to the Neceſſary Houſe, but he muſt go thorough my Room: but if you pleaſe to ſend for *Mr. Tooley*, and Captain *Courtney* they will ſay and Swear that theſe things paſt in their preſence, or to the ſame purpoſe, Except what paſt between him and me in his own Chamber. Enſign *Tooley* did read the paper of the Flying-Poſt, and as for what he ſaid of his knowing nothing of the Plot, it was talkt of up and down in the Priſon, and ſo it came to me; and I Invited him into my Chamber as my old acquaintance, though I was not very familiar with him; and as he declared, he knew nothing of the matter.

*L. Ch. Juſt. Holt*, You hear what he ſays, Captain *Blair*, did you tell him you knew nothing of the Plot.

*Cap. Blair*, Yes, I believe I might at firſt; as we were talking when I firſt came in, and I told him the Truth: For I was innocent as to the Aſſaſſination, for indeed I was ſo. And as to the Invaſion there was only ſome general Diſcourſe, and I was not willing to explain my ſelf among any ſuch people as they were, when they askt me any Queſtions about it, I had to do with the King and Council.

*L. Ch. Juſt. Holt*, Sir *John Friend*, have you any more witneſſes to examine?

*Friend*, Yes, my Lord, I deſire Mr. *King* may be called. (Which was done) and he appeared.

*L. Ch. Juſt. Holt*, There he is, Sir, what would you ask him?

*Friend*, I deſire to know of him whether he does not know Captain *Blair*, and Captain *Porter* to be Roman Catholicks, and whether he does not know me to be a Proteſtant?

*King*, I am of Opinion Mr. *Porter* is a Papiſt, he was always taken to be ſo at *Epſom*, where I uſed to go, and where he uſed to go, and he was never lookt upon as a Proteſtant.

*L. Ch. Juſt. Holt*, And what do you take Sir *John Friend* to be?

*King*, I take Sir *John Friend* to be a Proteſtant, ſo he is, and ſo he ever was.

*Friend*, But when you have been in my Company, and they have been ſpeaking of the Government, what have I ſaid and done.

*King*, When ever they ſtarted any reflecting words upon the Government, he was uſed to ſay, forbear, I do not admit of any ſuch Diſcourſe.

*Mr. Att. Gen.* How long have you known him?

*King*, He has been my acquaintance this Fifteen Years, and married a Relation of my Wives Husbands. (At which there was very great laughing)

*King*, I mean her former Husband.

*L. Ch. Juſt. Holt*, He has reconciled the matter very well for this point, for he tells you he meant her firſt Husband.

*Friend*, Ay my Lord, no doubt of it, he will recover it, it was her former Husband. Mr. *King*, don't you mean it was her former Husband?

*King*, Yes, Sir, I have told you it was ſo, her former Husband's Name was *Thomas Caſe*.

*L. Ch. Juſt. Holt*, Mr. *Tanner*, you are to look upon two Statutes, the one is 3 *Jac.* 1. *cap.* 4. and the 30 *Car.* 2. *cap.* 2.

*King*, My Lord, I have heard him ſay, if I had not taken the Oaths to K. *James*, which Oaths are binding to my Conſcience, I could as freely take the Oaths to the preſent Government, as any Man in *England*; but I will live peaceably and quietly under the Government, but becauſe I do not take the Oaths, I am double tax'd, and I will pay it.

*Friend*,

*Friend.* My Lord, I desire Capt. *Kaines* may be call'd. *Who appear'd.*

L. C. J. *Holt.* What do you ask him, Sir?

*Friend.* Capt. *Kaines*, I desire to know of you, whether Mr. *Porter* and Mr. *Blair* are Roman Catholicks; and I desire you to speak as to my self, what I am.

*Kaines.* They are so reputed to be at *Epsom*; it was always so reported there; and I have been acquainted with Sir *John Friend* several years, being concern'd together in the Train'd-Bands of the Tower-Hamletts, and I have been in his company several times since the King came in, and never heard him give any reflecting Language against the Government in my Life.

L. C. J. *Holt.* Have you done with him, Sir?

*Friend.* My Lord, I did not hear him, but I suppose he has declar'd, as to Capt. *Porter* and Capt. *Blair*, that they are Catholicks.

L. C. J. *Holt.* He says, *Porter* and *Blair* are reputed Papists; and he has known you a long time, and been concerned with you in the Trained-Bands, and never heard you reflect upon the Government since the King came in.

*Friend.* My Lord, I desire to know, whether he believes me to be a Protestant?

*Kaines.* I did always take Sir *John Friend* to be a Protestant.

*Friend.* Then, next, I desire Mr. *Carpenter* may be call'd. *Who appear'd.*

L. C. J. *Holt.* What do you ask him, Sir?

*Friend.* I desire, Mr. *Carpenter*, that you will acquaint the Court, whether you know Capt. *Porter* to be a Roman Catholick, and what you know of me.

*Carpenter.* I have been at *Epsom* several Summers, and usually am there in Summer-time, and he was so reputed there: But as to Sir *John Friend*, I have known him above these Twenty years; I keep a Brew-House, as he does, and we have been concern'd together, and have had several occasions, upon the account of Trade, to meet him, upon particulars of Appraisement, when any Partners came in, and I never knew him but very orderly and civil; I never heard him reflect any thing upon the Government, but was always peaceable and quiet; he was always look'd upon as a Protestant, and went to Church. That's all that I can say.

*Friend.* My Lord, as to the Statute-Book, will your Lordship please that the Statute-Book be sent for.

L. C. J. *Holt.* Yes, yes, We do not forget it. Have you any more Witnesses? Call all your Witnesses, and we will consider of that afterwards.

*Friend.* I desire Mr. *Hawkins* may be call'd. *Who appear'd.*

L. C. J. *Holt.* What say you to this Gentleman?

*Friend.* I desire you, Mr. *Hawkins*, to give an account what I am; whether you know me to be a Roman Catholick or a Protestant.

*Hawkins.* I have known Sir *John Friend* these Twenty odd years, and have had Dealings with him many times before the change of Government, and since, and I never heard him reflect upon the Government; nor never heard him to speak slightly of it: And as to his being of the Protestant Religion, I do know as much as any Man, as much as another; I always believ'd him to be a Protestant of the Church of *England*, as good as any Man alive; he always went to Church.

L. C. J. *Holt.* What, since the Revolution?

*Hawkins.* I have not been so conversant with him since that, because I went out of Town, and liv'd out of Town; but I believe there are those at *Hackney* that can give an account of that matter.

*Friend.* I desire Major *Mould* may be call'd.

L. C. J. *Holt.* Then, I suppose, you have done with Mr. *Hawkins*.

*Friend.* Yes.

*And then Major* Mould *stood up.*

L. C. J. *Holt.* Well, what say you, Sir?

*Mould.* My Lord, I have known Sir *John Friend* many years, above these Twenty years, and I always look'd upon him as a sincere and strict Protestant; and I have often been in his company since the Revolution, and I never heard him speak diminishingly of the Government: I believe him to be as good a Protestant as any in *England*.

*L. C. J. H.* How! As any in *England*? That's a great Character.

*Friend.* Then I desire Dr. *Hollingsworth* may be called, (*but he did not appear.*)

*Friend.* Then, my Lord, I desire Mr. *Lufton* may be called.

*L. C. J. H.* There is Mr. *Lufton*, what would you have with him?

*Friend*, I desire he will give an account what he knows of me, what Religion I am of.

*Lufton.* My Lord, as to Sir *John Friend*, I have known him this ten years: he was pleased to Imploy me as a Chaplain in his House a considerable time, both before and after the Revolution; and after the Revolution we always used the Prayers according to the Church of *England*, and we did always Pray for the present King, and the late Queen *Mary*, at which Sir *John* was many times present.

Mr. *Att. Gen.* How long is it since you left him?

*Lufton.* About four or five years, as I remember: Then Sir *John*'s Family lessened, he was pleased to say to me, Mr. *Lufton*, I am going to *Tunbridg*, and my Family lessens, (this is about five or six years ago,) and I shall have no occasion for you at present, but if ever I make use of a Chaplain again I will make use of you, this he was pleased to say.

*L. C. J. H.* How long is it, do you say, that you have left him?

*Lufton.* About five years; and as to any Objection of his being a Papist, I have often discoursed with Sir *John Friend* about the Popish Religion, and he has often spoken with Detestation of the Principles of the Papists.

*Friend.* What have you heard me speak of the *French*; and about any thing of an Invasion: how I would venture my life for the Protestant Religion, or any thing of that.

*Lufton*, I have often heard you say, as to the present Government, that tho you could not Comply with it, yet you would live peaceably under it. When we have been talking of these things, you said you never would be in a Plot; and tho you could not Comply with the present Government; yet you would never concern your self in any Design against it. For my part, my Lord, I know nothing by him, but that he is an Honest, and a Worthy Gentleman, tho he be so unfortunate to be under this Accusation.

*Friend.* I desire Mr. *Hoateley* may be called, (*who appeared.*)

*L. C. J. H.* Well, what say you Sir?

*Friend.* Pray, Mr. *Hoateley*, will you give an account to the Court what you know of my being a Protestant, and of my Life and Conversation.

*Hoateley.* I believe Sir *John Friend* is a very settled Protestant of the Church of *England*; and I have reason to believe so, because I have frequently discoursed with him, because I have had a Couple of Children that were his Nephews, upon whose account I have been forced several times to wait upon him; and he has often said he never would be in any Plot, and his words that he used to me were really very Remarkable, *Catch me in the Corn and put me in the Pound.*

*L. C. J. H.* What were his words Sir?

*Hoateley.* He used to say he would never be in any Plot, for says he, *Catch me in the Corn and put me in the Pound*; and I have heard him express himself with a great deal of Detestation of King-Killing, and those Principles of the Papists; the Assassinating of any Crowned Head.

Mr. *Att. Gen.* Pray Sir, How came you to discourse with Sir *John Friend* about King-Killing and Plots? You are a School-Master it seems, how hapned this sort of discourse between you?

*Hoateley.* There will be discourses about these things sometimes.

Mr. *Att. Gen.* But, pray, how was the discourse Introduced? What was the occasion of the discourse? Sure there was some occasion extraordinary for him so to express himself to you.

*Hoately.* I cannot remember the particular occaſion, but ſuch diſcourſe there was.

Mr. *Att. Gen.* Pray how long ago is this time that this diſcourſe was?

*Hoately.* I believe it was five or ſix times within theſe two years.

Mr. *Att. Gen.* What, have you had the ſame diſcourſe five or ſix times one after another?

*Hoately.* I cannot ſay that; but thoſe uſed to be his words.

Mr. *Att. Gen.* What, in common diſcourſe?

*Hoately.* He ſaid he would never be in any Plot.

*Friend.* My Lord, I can bring a great many more Witneſſes of this kind, and I believe I could have a thouſand to prove me a Proteſtant.

*L. C. J. H.* Call whom you will, Sir *John*, we will hear them.

*Friend.* My Lord, I am very loth to trouble you.

M. *Juſt. Rookeby.* No, it will not be reckon'd any trouble, we will hear all your Evidence.

*Friend.* There is one Mr. *Willis* and one Mr. *Hemings*; but I deſire it may not be forgotten as to the Acts of Parliament, for they are very material for me, as I ſhall ſhew by and by.

Mr. *Willis* appeared.

*L. C. J. H.* Well, what ſay you to this Gentleman?

*Friend.* Mr. *Willis*, I deſire you'd give an account to their Lordſhips, what you think of me, as to my being a Proteſtant, and how I have behaved my ſelf in every reſpect all along.

*Willis.* My Lord, I have always taken it for granted, that thoſe that come to Church are Proteſtants: and I did always take Sir *John Friend* to be a Proteſtant. The acquaintance that I had with him was ſince he lived in the Pariſh of *Hackney*, and we have had ſome converſe together, and there have paſt friendly Viſits between us; and I do not remember any diſcourſe while I was there that tended to the Government one way or another. I was never very often with him, but his diſcourſe was always very obliging, diſcreet, and prudent, whenever I was there.

*L. C. J. H.* Pray Sir, when did you ſee him at Church?

*Willis.* Truly, my Lord, I cannot call to mind when it was.

*L. C. J. H.* Cannot you name any time?

*Willis.* He may be at Church ſometimes and I not ſee him: our Seats are at a diſtance from one another, and there are Pillars between, that one can't ſee every body; and I cannot call to mind when I did ſee him laſt at Church.

*L. C. J. H.* Has he been there within this year or two?

*Willis.* He has been gone from *Hackney* a year and above.

Mr. *Mountagne.* Pray can you ſay you have ſeen him at Church within theſe four years?

*Willis.* Truly I cannot call to mind whether I have or no.

*Friend.* I deſire Mr. *Hemings* may be called. I could call a great many more but they are much to the ſame effect as theſe are.

*L. C. J. H.* Call whom you will, Sir *John*, if you think fit to call them, we will hear them.

*Friend.* Being they are not here I will not trouble you further. It is all to the ſame purpoſe.

*L. C. J. H.* Well, take your own courſe; if you'll call them, the Court will be ſure to hear them.

*Friend.* But my Lord, here is one thing that I muſt deſire your Lordſhip's direction in: If theſe Gentlemen, my Lord, Capt. *Porter* and Capt. *Blair*, who are the two Witneſſes, and none but thoſe two, againſt me, if they are Papiſts, they are not good Witneſſes againſt a Proteſtant, to prove him a Traitor within the Statute of the 25*th* of *Edward* the Third. For that Statute ſays, He that is indicted muſt be proveably attainted; which cannot be by the Evidence of Papiſts, and

and thoſe that refuſe to take the Oaths of Obedience, which are required to be taken: And therefore I humbly beſeech you, that you will pleaſe to tender them the Oaths, for there is a Statute in the 3*d*. *Jac.* I. *Cap.* 4. which appoints the tendering of the Oaths to them.

*L. C. J. Holt.* That is not our Buſineſs at this time.

*Friend.* Then I muſt beg your Pardon that they are not ſubſtantial Witneſſes, for this is the Law, as I am informed. I humbly ſubmit it to your Lordſhip, whether this be not the Law. I only ſpeak it to know whether it be Convenient for me to rehearſe it. I ask'd the Queſtion before they were ſworn. I Know not whether it be Convenient for me to move it now.

*L. C. J. Holt.* Aye, aye, it is very Convenient now, now is the proper time.

*Friend.* Before ever they were ſworn I would have ask'd them the Queſtion, whether they were Papiſts or not, but it was not allowed, it was over-ruled. Now, my Lord, there is ſuch a Statute, and I humbly beſeech you to tender them the Oaths, and that would be a demonſtration, that they were Papiſts, and then they could be no good Witneſſes.

*L. C. J. Holt.* You ſay well, if we could find ſuch a Statute, that no Papiſt ſhould be a Witneſs; but there is no ſuch.

*Friend.* My Lord, I beg your pardon, and I hope you will not take it amiſs, I offer what I am adviſed to offer.

*L. C. J. Holt.* No, no, by no means, there will be nothing taken amiſs.

*Friend.* For the Statute of the 25*th*. of *Edward* III. and that of the 30*th*. of King *Charles* II. and that of the 3*d*. of King *James* I. *Cap.* 4*th*. here it is plainly demonſtrable, that Papiſts are not to be believed againſt any Proteſtant, who is with them eſteemed a Damnable Heretick; and then they believe the Pope and their Prieſts can abſolve them from all Oaths, and they are declared to be given to Evaſions, and Equivocations, and mental Reſervations, and can have Diſpenſations for all their Villanies, and therefore they are not to be Credited; their Evidence is of no value, unleſs they will in this manner upon their Oaths renounce theſe Principles; therefore I humbly beg they may have the Oaths tendred them.

*L. C. J. Holt.* That is not our Buſineſs now.

*Friend.* And, my Lord, your Lordſhip was pleaſed to promiſe me that if any Matter of Law did ariſe, my Counſel ſhould be heard.

*L. C. J. Holt.* Firſt let us know whether there be any ſuch Law as this you mention, or to any ſuch purpoſe.

*Friend.* My Lord, I deſire my Counſel may come in, and ſpeak to it. For my Life is in danger, and ſo is every honeſt Gentleman's Life every day. I am as clear as the Child unborn, I have no Witneſſes to prove any thing, and therefore I deſire my Counſel may be heard.

*L. C. J. Holt.* If the Court did think there were any Colour in this Objection that you make, we would let you have Counſel, we would do it; nay, we are deſirous to do it if we could.

*Friend.* What, my Lord?

*L. C. J. Holt.* To allow you Counſel, if there were any Colour in the Objection in relation to Papiſts not being Witneſſes. I would be glad to ſee the Counſel that would own this Objection: but indeed, I ſee no Colour in it; the Statute ſhall be produced that you quote, and then we ſhall ſee whether there be any thing like it in that Statute. Pray will you read thoſe Words that you ſay are in the Statute to that purpoſe.

*Friend.* I am not ſo expert to know the Words before or after, and therefore I think it is requiſite I ſhould have Counſel.

*L. C. J. Holt.*

*L. C. J. Holt.* It is ſuppoſed you have had Council, and I ſuppoſe your Counſel that have adviſed you to make this Objection, have inſtructed you whereabouts in the Statute it is.

*Friend.* My Lord, I deſire my Council may be called in and heard to it.

*L. C. J. Holt.* I tell you, that by Law we cannot hear Counſel to any ſuch Matter that has no colour of Objection in Law in it; tho' for my part, I wiſh we could, becauſe I would fain hear what any Counſel can ſay to make out ſuch an Objection, that Papiſts are not good Witneſſes.

*Friend.* My Lord, I wiſh you would hear my Counſel to it.

*L. C. J. Holt.* Look ye, Sir *John Friend*, you have deſired that this Statute may be turned to, and you deſire to have them read, and they ſhall be all read from the beginning, to the end.

*Friend.* I deſire the Statutes of the 25*th* of *Edw.* 3. the 3*d* of K. *James* the 1*ſt. Cap.* 4. and the 30*th* of K. *Charles* the Second may be read.

*L. C. J. Holt.* What Chapter is that of the 30*th* of King *Car.* the 2*d*?

*Friend.* Really it is not put down in my Paper.

*L. C. J. Holt.* Then look out the Chapter, while he is reading the other. Look ye, Gentlemen of the Jury, Sir *John Friend* does deſire the Statute of the 25*th* of *Edw.* 3. may be read, which is the Statute about Treaſons, and the Statute upon which he is Indicted, and it ſhall be read, therefore pray hearken to it. *Reads it.*

*Cl. of Ar.* This is made in the 25*th* year of King *Edw.* the 3*d.* A Declaration which Offences ſhall be judged Treaſon. *Item.* Whereas divers Opinions have been before this time, in what Caſe Treaſons ſhall be laid, and what not.

*Friend.* My Lord, I beg the favour I may ſpeak one word before it go on to be read.

*L. C. J. Holt.* Yes, with all my heart.

*Friend.* I ſpeak it, my Lord, becauſe it will be to the very thing now in queſtion, I am adviſed that Conſultation to Levy War is no Treaſon, without Rebellion and Inſurrection, and inviting Men to come from beyond Sea is no Treaſon, unleſs a Foreign Prince be Invited to come with his own Subjects; for *Engliſh*, *Scotch*, and *Iriſh* are not Enemies, but Rebels, and to be dealt with otherwiſe; therefore I leave it to your Lordſhips, for I am no Lawyer, only I am adviſed to inſiſt upon theſe things. (Then the Statute of the 25*th* of *Edw.* 3. about Treaſons was read throughout, only about the middle the Priſoner made ſome interruption.

*Friend.* I believe this Statute is not the Statute I go upon, that which I mainly inſiſt upon, is the Statute of the third of King *James* the Firſt, *Cap.* 4.

*Mr. J. Rokeby.* This is the ſame Statute you are Indicted upon, the great Statute for Treaſons; and as to your Objection you laſt mentioned, what is Treaſon, and what is not, he is not yet come to that part.

*Friend.* Well, then let him go on with it.

It was read to the end.

*L. C. J. Holt.* Now it has been read, is this the Statute you wou'd have?

*Friend.* There muſt needs be a miſtake as to the Chapter, it is ſet down the 25*th* of *Edw.* the Third, but there is no Chapter.

*L. C. J. Holt.* Yes, this muſt be the Statute, it relates to Treaſons, and it has thoſe words in it, that what you read out of your Papers relate to. Well, that we may go on in order of time, what Statute of King *James* is it that you mention?

*Friend.* It is the 3*d* of King *James* 1. *Cap.* 4. it is upon account of tendring the Oaths appointed to be taken by that Statute, and——(reading out of a Paper——to tell the Court that they ought to have the Oaths tendred them.

*L. C. J. Holt.* That is the buſineſs of another time, read the Statute.

*Cl. of Ar.* An Act for the Diſcovering and Repreſſing of Popiſh Recuſants, what part is it?

*Friend.* Truly my Lord I can't tell.

*L. C. J. Holt.* It is a long Statute, but if he'll have it read, it muſt be read all.

*Friend.* My Lord, I would not give the Court any trouble, but it is about having the Oaths tendred to them.

*Cl. of Ar.* I believe this is the Paragraph, and for the better trial how his Majeſty's Subjects ſtand affected in point of their Loyalty and due Obedience, *&c.* (A great part of the Statute was read, relating to that Matter.)

*L. C. J. Holt.* What elſe would you have read, Sir *John Friend*?

*Friend.* I only gather from thence that no Roman Catholick is capable of Swearing againſt a Proteſtant, becauſe the Pope and the Prieſts can abſolve them from their Oaths.

*L. C. J. Holt.* Well, what have you more to ſay?

*Friend.* My Lord, I only ſpeak this as to Roman Catholicks, they do not regard an Oath againſt a Proteſtant, becauſe they have their Prieſts that can abſolve them, and therefore how ſuch a Man's Oath can weigh any thing I cannot apprehend; therefore if I have omitted any thing, I hope your Lordſhip will ſupply it, as you are my Council, for you are a Council for me, as well as the King.

*L. C. J. Holt.* Yes, yes, I wou'd help you in any thing I could.

*Friend.* My Lord I thank you, I deſire you to help me, for I am as innocent as the Child unborn, whatſoever theſe Men have Sworn, theſe are hard things that are laid upon a Gentleman, and no Man is ſafe at this rate, they being Sworn by two Papiſts, who will Swear any thing againſt Proteſtants.

*L. C. J. Holt.* Look ye, Sir *John Friend*, have you any Witneſſes to produce that theſe two Men have any diſpleaſure or malice againſt you, that they ſhould accuſe you falſly?

*Friend.* My Lord, I am ſorry I have not my Witneſſes, I have been ſo kept up, that I had not time for People to come to me; I had not my Council come to me before *Saturday*.

*L. C. J. Holt.* How hapened that?

*Friend.* My Lord, there was a miſtake in that, I think it was *Friday*, either *Friday*, or *Saturday*; I had them not 'till *Friday* in the Afternoon; I was kept ſo cloſe that none were permitted to come at me. On *Thurſday* I had an Order, but there was a miſtake in the Order, and I deſired to get another Order, but I could not get any body to get another Order for me, to have my Friends to go and enquire into things, or elſe I ſhould have found out enough Witneſſes.

*Mr. Attor. Gen.* I am ſure he had an Order for Council at the ſame time that notice was given him of his Tryal.

*L. C. J. Holt.* When was that?

*Mr. Attor. Gen.* On *Tueſday*, my Lord.

*L. C. J. Holt.* What ſay you to it, Mr. *Baker*?

*Mr. Baker.* My Lord, I did attend Sir *John Friend* on *Tueſday* laſt, to give him notice of his Trial as this day; and I at the ſame time told him if he would name his Council to me, I would procure an Order for them to come to him. The next Morning he was pleaſed to name to me Sir *Bartholow Shower*; I took the liberty to tell him, that he being ſo concerned at the Houſe of Lords, and at the Committees about Parliamentary buſineſs, ſome other Perſons that had named him of their Council, notwithſtanding Orders were procured for him to go to them as their Council, yet by that means they were diſappointed of him, and great delay was given to the Priſoners; and therefore I deſired him to conſider of it, and to ſend to Sir *Bartholomew Shower*, and any other Council that he had a mind to, and know their pleaſures whether they would attend him; and if he would ſend me word, I would procure an Order for them. But not hearing from him, I went on *Wedneſday* to him again, and he ſaid he had ſent to Mr. *Northy*, but he would not come to him 'till he had ſpoke with Sir *Bartholomew Shower*, but he would ſend me word that Night, yet he did not. But the next day came Mr. *Burleigh* to me to the Duke of *Shrewsbury*'s Office, and brought me the Names of the Perſons that he would have aſſigned him of Council, and immediately I procured an Order for it, and away he went with it. This was upon the *Thursday*; Mr. *Welden*, and Mr. *Creſſet*, or one of them was named in the Order, I am not poſitive which, and Mr. *Underhill*, and Mr. *Burleigh* were to be admitted to him. Mr. *Burleigh* had the Order, if he did not carry it to him, I can't help that.

*L. C. J. Holt.* When was that Order for the Council?

*Mr. Barker.* It was upon *Thursday*, my Lord.

*Friend.* My Lord, may I ſpeak?

*L. C. J. Holt.* Yes, yes, what you will.

*Friend.* My Lord, the Reaſon why I had not my Witneſſes was this; There was a Gentleman, one Colonel *Caſh*, Lieutenant to my Lord *Lucas*, he undertook to go, and

put

put in his Name, and three more; one *John Neale*, and one *Philips* to have an Order to go about to look after my Witneſſes, but they did not put in any one of theſe Names, but they took up and ſecured my Kinſman *Caſh*, and put him into the Meſſengers hands, and would not ſuffer me to have any of his aſſiſtance, therefore I ſaw what a deſign there was upon me.

*Mr. Attorn. Gen.* As for Mr. *Caſh*, there was very good Reaſon for it, he was ſecured for ſuſpicion of Treaſon.

*L. C. J. Holt*, If you had wanted any Witneſſes, and had not been ſo fully prepared as you expected to be, you ſhould have moved before the Tryal came on to put it off.

Mr. *J. Rokeby*. But, my Lord put a queſtion to you before, can you ſhew any Reaſon, why theſe Perſons ſhould have any Malice againſt you?

*Friend*. My Lord, I was not ſo much a Lawyer, as to know theſe things, but it's a hard thing, that a Man that's Innocent muſt ſuffer at this rate, I have been diſappointed in every thing, for theſe Gentlemen have not been permitted to Anſwer whether they are Roman Catholicks or no.

Mr. *J. Rokeby*. Nor have your Witneſſes proved that they are Roman Catholicks, but only that they are reputed ſo.

L. C. J. *Holt*. Well, I can't tell what avail that would have been off, if they had been proved ſo. Have you any more to ſay, Sir *John Friend*?

*Friend*. No, my Lord, I leave it to God, and you, and the Jury to Conſider of it.

Mr. *Sol. Gen.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, I am of Counſel in this Caſe for the King, againſt Sir *John Friend* the Priſonner at the Bar; and it comes to my turn to ſum up the Evidence that has been given. Sir *John Friend* the Priſonner at the Bar, cannot but own, that he hath hitherto had a very fair Tryal, and he ſhall have no reaſon to Complain that I do him any Injury in my part. I am ſure both he, and you, and all of us, very well remember, when Perſons of as good Quality as he is, or better, had not the ſame Uſage or Liberty of Defence, in ſuch Caſes as this Gentleman has had. And tho' all things are very well now, yet the time was within all our Memories when Innocency was no ſafety for a Man's Life, much leſs for his Liberty; and when thoſe two are taken away, and are Invaded, Property ſignifies nothing. The time was when the Proteſtant Religion, and the Church of *England*, of which the Priſonner boaſts himſelf to be, (and for a very good Reaſon, becauſe it is the beſt of Religions) I ſay, the time was when that was in danger; and when Popery (for which he now reflects upon the Witneſs) was like to have over-run both us and it: And if his Majeſty, with the hazard of his Life, and at a great Expence, had not reſcued us, there is no body doubts, but that all that we feared at that time, would have been made good upon us e're now. And it is a Melancholy thing to Conſider, that there ſhould be a ſort of People amongſt us, ſo in Love with what we then Dreaded, as to be continually endeavouring to bring it about again. And it is an Ungrateful thing, when his Majeſty ventur'd his Life then, and has done it ſeveral times ſince to defend us, and does all that he can to keep our Enemies at a diſtance, there ſhould be a Party of Men, that do what they can to Invade their Country, to Deſtroy his Majeſty's Subjects, and to fall upon him himſelf, when he is preſent amongſt us. I will not accuſe the Priſonner at the Bar particularly, tho' it is plain he knew of it.

*Friend*. Know of it? I declare before God, and the World, I know nothing of it.

Mr. *Soll. Gen.* This, if it were amongſt Equals, were certainly a moſt ungrateful thing, when another Perſon is Fighting in my Defence, that I ſhould deſign againſt his Life; or when he does what he can to protect my Eſtate, I ſhould be Invading and Spoiling his.

Gentlemen, if the Priſonner at the Bar is not Guilty of what he is Accuſed of, and what you have heard the Witneſs give Evidence of, then nothing of this does relate to him: But if what has been given in Evidence againſt him is true, then the Priſonner at the Bar is one of thoſe Perſons, that has done all he can to make this Country, which has been the place of Retreat for all Proteſtants to fly to, from Perſecution in their own Countreys: I ſay, to make it as Unſafe for them, as that from which they came.

Gentle-

Gentlemen, The Evidence againſt him, is firſt Mr. *Porter*, and he gives it in Evidence, that at at the Old *King's Head* in *Leaden-Hall-ſtreet*, there was a Meeting of the Priſonre, and *Porter*, and ſeveral others, in order to Conſider the beſt means, how to bring back the late King *James*; and they concluded at laſt, that the beſt means would be, to ſend ſome body into *France*, to adviſe the late King *James*, to borrow of the *French* King 10000 Men, 1000 Horſe, 1000 Dragoons, and 8000 Foot, and that he ſhould make what ſpeed he could to land with them here, and to Incourage and invite him to do ſo; they promiſed him their aſſiſtance, and they did not doubt, but to be ready to meet him with 2000 Horſe at his Landing.

Gentlemen, The Perſon that was pitched upon to go upon this Errand, was Mr. *Chernock*, a Perſon lately Executed for the Treaſons of which he was attainted. Mr. *Chernock* was Diffident whither this were the effect of ſober Conſideration, and therefore would not undertake to carry this Meſſage, 'till there had been another Meeting of the ſame Perſons; to ſee whether they continued in the ſame Mind. Another Meeting accordingly was appointed, and agreed upon, and that was at Mrs. *Mountjoy's* Tavern at St. *James's*, and there, he ſays, there were almoſt all the Perſons that were in *Leaden-Hall-ſtreet*; and at that meeting the Queſtion being askt, whether they were of the ſame Opinion, that Mr. *Chernock* ſhould go to *France* to the late King upon that Meſſage, that I told you of before, they did all agree to abide by the old Reſolution; that he ſhould go, and make as ſpeedy a return as he could, and bring back the late King's Anſwer.

Captain *Porter* tells you, that Mr. *Chernock* did go to *France*, and comes and brings word back, that the *French* King could not at that time ſpare that Force that was then Deſired; and ſo it was delayed at that time, becauſe the *French* King was not at leiſure then to Employ his men in this ſervice; but it was likely to have taken place, but very lately, if the Providence of God had not prevented it.

Gentlemen, our next Witneſs is Captain *Blair*, and he tells you, that about 2 Years ago. Sir *John Friend* the Priſonner at the Bar, ſhow'd him a Commiſſion that he had received from the late King *James*, to raiſe a Regiment of Horſe, of which he was to be Collonel; that this was ſigned *James Rex* at the top, and Counterſigned by my Lord *Melford*, and it was in Paper. And that there was a great many Conſultations between Sir *John Friend*, himſelf, and others about the raiſing of this Regiment, and providing Officers for it. He tells you he was to have been Lieutenant Collonel, and was to procure as many Officers, and Troopers as he could; and he tells you he did procure ſeveral Officers; and he names them; one *Fiſher* was to be Eldeſt Captain, one *Vernate* and one *Hall*, and one *Bertram*, and that *Bertram* was to be Lieutenant to *Blair* in his own Troop.

Gentlemen, A great deal of the Evidence which Captain *Blair* has given, is indeed out of Sir *John Friend's* own Mouth, and that is as ſtrong an Evidence as poſſibly can be given; and he does for that purpoſe tell ye, that he ſaid one *Evans* was to be a Captain of Horſe, and one Collonel *Slater* was grown ſo much in Sir *John Friends* Favour, that he Rivalled Captain *Blair*, in the Opinion of Sir *John Friend*; and Sir *John Friend* for that Reaſon, would have two Lieutenant Collonels, whereof *Slater* was to be one. Captain *Blair* ſays, he took that amiſs, that any one beſides himſelf ſhould be in that Poſt, and Reſented it to Sir *John Friend*, and therefore Sir *John Friend* found out another Office for *Slater*; and that was to be a Captain of a Troop of Horſe, that ſhould conſiſt of Non-ſwearing Perſons, and which were to be an Independant Troop.

Gentlemen, He tells you that he did Liſt ſeveral Men, but the particular perſons, tho' he has Named the Officers, he did not ſo diſtinctly remember, but they are in the Paper that he delivered to the Council, which he has not about him: He tells you, that Sir *John Friend* told him that one *Richardſon* was another Captain of Horſe, and the like of one Mr. *Cole*, that he was to be a Captain likewiſe.

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He alſo acquainted you, Gentlemen, that he did receive from Sir *John Friend* ſeveral ſumms of Money, and he acquaints you in particular with the manner how; he ſays that Sir *John Friend* had expended 100 *l.* towards the 300 *l.* that was paid for the eſcape of Coll. *Parker* out of the *Tower*: and that Sir *John Friend* was to be reimburſed by Moneys that were to be tranſmitted from King *James* at *St. Germaine.* He tells you that *Piggot* had received the Money, but did not deal with Sir *John Friend* ſo fairly as to pay it to him; but when Captain *Blair* was preſſing on Sir *John Friend* for ſome Money, Sir *John Friend* was contented that he ſhould have 20 *l.* provided he got it from *Piggot* out of this 100 *l.* Captain *Blair* had not intereſt enough it ſeems to get it himſelf from *Piggot*, but he applys himſelf to one *Harriſon* or *Johnſon*, (for it ſeems he goes by both thoſe names) a Prieſt, who had an intereſt in *Piggot*, by by which means he got 20 *l.* of *Piggot*, and this he ſays was in *June* or *July* laſt.

Then, Gentlemen, he tells you afterwards, he was preſſing upon Sir *John Friend* to have another 20 *l.* and Sir *John Friend* was contented he ſhould have it, provided he had it from *Piggot*, and he produces ye a Letter that was from that very perſon the Priſoner at the Bar, which is to that purpoſe; excuſing himſelf that Captain *Blair* had not heard from him, but that he would meet him at ſuch a time, and at ſuch a Coffee-houſe. The matter indeed is not directly expreſt in words, but at the time and place the Priſoner did meet *Blair*, and there was *Harriſon* and this *Piggot*, and there 5 *l.* of the laſt 20 *l.* was paid him; and the other 15 *l.* was paid him afterwards: and he ſwears theſe two twenty pounds were paid to him by Sir *John Friend*, upon account of the charge that *Blair* had been at in drinking with, and treating thoſe men who were to be engaged with Sir *John Friend* in his Regiment.

Gentlemen, he tells you likewiſe, that Sir *John Friend* told him he had written a Letter to King *James*, and he ſhewed him this Letter, and this was at that *Piggot*'s Mothers houſe; and when *Blair* read it, he tells you he thought it was ſo well penned, that he did apprehend *Ferguſon* muſt have a hand in it, and that it was none of Sir *John Friend*'s own; and that upon this Sir *John Friend* was angry, that he ſhould ſuſpect that Sir *John* was not the writer of this Letter; all this ſhews an Intelligence with King *James*, and makes out all the reſt of the intended Invaſion by King *James*, and a *French* force here.

Captain *Blair* likewiſe tells you, Gentlemen, that Sir *John Fenwick* had 4 Troops of Horſe, as Sir *John Friend* told him, by way of encouragement, which were all ready for the ſervice; and that *Ferguſon* undertook to bring a number of men, and was to be one himſelf in that party; and all this was to be put in practice when the *Thoulon* Fleet came about, and joyn'd the *Breſt* Fleet. And laſtly he tells you, when he went in the Coach with Sir *John Friend*, Sir *John* told him they muſt act very warily, and be very good husbands, for in truth it had coſt him ſo much, that if the Fleet did not come ſoon, or the deſign ſhould miſcarry, he ſhould want Money to carry on his Trade. All this poſitive Evidence is of the Witneſſes own knowledge, from the Priſoners own mouth.

Againſt this Evidence, Gentlemen, he takes exception; that the 2 Witneſſes are *Roman* Catholicks; but this is no exception to their Evidence at all; for it was never yet allowed, or indeed objected, that I know of, before, that *Roman* Catholicks were not good Witneſſes. A *Roman* Catholick may be an honeſt man, notwithſtanding his Religion: but, I think, that every body knows that men who have been ill in other things, tho *Roman* Catholicks, may as to thoſe particular things be good Witneſſes. Nay, not long ago, but on *Wedneſday* laſt we produced ſome Witneſſes, who were *Roman* Catholicks, and yet allowed for good Evidence, tho ingaged in that Horrid Conſpiracy againſt the life of the King; and if any thing would have taken off their Evidence, certainly the Guilt of ſuch a Crime would do it, more than the pretence of any particular perſwaſion of Religion. Nay, I muſt crave leave to ſay farther, that this argument is ſo far from making him no Witneſs, that it makes it the more likely he does ſpeak the truth, and therefore is a good Witneſs. For tho *Roman* Catholicks may be honeſt men, yet they are more like-

ly to engage in such a Design than any other men. And I think I may very safely add, Sir *John Friend* would not have found so many that he could ingage in such a busines as this, that were of any Religion but the *Roman* Catholick; and therefore he applied himself to these persons, as most likely to imbark with him on such a bottom.

Gentlemen, as to what *Courtney*, that was brought from the *Gate-house* says, about his discourse with Captain *Blair* in the Prison; Captain *Blair* has upon his Oath declared, that he did not go so far as to say, he did any thing against his Conscience, but only *Courtney* bid him take care what he swore, and prest him no further. He pretends he came casually into *Blair*'s Chamber, but it is plain he intruded into his Room; for it is sworn by the Jaylor, and *Blair* himself, that he had given directions none should come into his Room but his Wife, so that does not discountenance the evidence of *Blair* at all, and if you do believe what our Witnesses have said, Captain *Porter* and Captain *Blair*, then Sir *John Friend* is guilty of all the Crimes that are charged upon him in this Indictment, and I hope you'll be so just to your Prince, to your Country, and to your Selves, as to find him guilty accordingly.

*Mr. Cowper.* If your Lordship pleases to spare me a word on the same side. My Lord, I do not trouble your Lordship out of an apprehension that there is any thing necessary to be said to the Court in this matter, or for the satisfaction of the Jury, but, if possible, that we might convince the Prisoner at the Bar, that he has had no hard measure in this prosecution meeted to him, but that he is proved guilty of the Crime of which he stands accused, and that really there is no weight at all, in the defence which he has made.

The first part of it goes to discredit one of our Evidences, Captain *Blair*, from some discourse that he would object to have pass'd between him and the person here produced, in the Prison of the *Gate-house*. And the first part of that discourse was, upon *Blair*'s first coming into the Prison: and as to that time, the objection amounts to no more than this; that Captain *Blair* would not confess, when he was pump'd by a fellow Prisoner, that he was engaged in so horrid a design; what weight there is in such an objection, truly I cannot see, but will leave it to any mans judgment to consider, That a man when he is freshly taken upon such an occasion, does not immediately confess his guilt to every body that meets him, nay to persons that would not have lik'd him, for making such a confession, but perhaps would have destroyed him in Prison for so doing.

The other discourse was upon *Friday*, the next day, I think, before Captain *Blair* went to *Hick's-hall* to his examination; and then he intrudes himself into *Blair*'s Chamber, when he lay very ill upon the Bed, and accosts him with a cup of Brandy in his hand, and with good advice at the same time, that he should take great care in what he should say at *Hick's-hall*, and the like: and then Captain *Blair* it seems, did express some reluctancy in the thing he was going about, as if it were against his mind and inclination. If that were true, (tho Captain *Blair* denys it positively upon his Oath) yet it was no more than I am willing to observe for the Prisoner, Captain *Blair* did express here, when he first came into Court; and it is no more than what is natural, since the Prisoner had been his friend and intimate, and he was going to Depose that against him, which was likely to prove fatal to him.

My Lord, as to another part of his Defence, it consists chiefly in this; the Evidence brought to prove, that the Kings Witnesses are reputed *Roman* Catholicks, and that the Prisoner is a reputed Protestant of the Church of *England*. If that be true too, all that can be rationally and fairly collected from thence is this, that they (the Witnesses I mean) when they engaged in such a black and execrable design might be very good Papists; but I am sure it will be agreed, that the Prisoner in so doing was a very bad Protestant.

My Lord, he objects to their Evidence this likewise, that if they be Papists they may be absolved by the Pope, or their Priests, tho they should swear falsely. Possibly that may be so, for ought I know; I confess I am not very well acquainted with the principles of that Religion: but this I dare say, that every one who has heard what has been sworn by them, will think it so great a dis-

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ſervice to the Popiſh Cauſe and Intereſt, that it will be one of the laſt things their Prieſts will ever abſolve them of.

My Lord, there's another matter the Priſoner has thought fit to inſiſt upon: he has brought two or three Clergy-men to Depoſe, that whenever he diſcourſed with them (it ſeems at all times) he was talking about being in a Plot, and very readily told his reſolution not to be in any. It ſeems it ſtill ſwom uppermoſt; his profeſſions were made very cauſeleſsly; for they all ſay nothing introduc'd 'em: but of his own meer motion he was always declaring he was not then in a Plot, nor ever would be. I have heard, that one way, weak Men and Children often diſcover their knowledge of a ſecret intruſted to them, is, by a repeated and unneceſſary declaring, that they know nothing of the matter.

My Lord, in the next place for his defence, he juſt offered a point of Law; but the Court ſo well ſatisfied him in that, that I think he waved it. He alleged that a bare Conſpiracy to levy War is not Treaſon, and the Court did him right in declaring (as God forbid but they ſhould) that it is not Treaſon: but I deſire the Gentlemen of the Jury would conſider, that the Priſoner at the Bar is not accuſed barely of a Conſpiracy to levy War, but you are told to what end that war was to be levied, to joyn the late King upon his deſcent into this Kingdom with a *French* power, in order to drive his Majeſty out of the Kingdom, and depoſe him from the Crown; which is a killing him in the eye of the Law: and that is High Treaſon by whatever means they intended to effect it; whether by War or a Stab, or any other manner, it is indifferent.

In the next place, my Lord, I would take notice of another part of this defence, which had been better let alone, wherein he admits that he was preſent at the 2 meetings he is accuſed to have been at by *Porter*; but he only differs in one point, that there was nothing talk'd then but general and indifferent diſcourſe. The Witneſſes have ſworn what the diſcourſe was, and you will weigh the one againſt the other; his affirmation of a thing unlikely in defence of himſelf, and what is depoſed upon Oath by the Kings Witneſſes to the contrary.

My Lord, there is one thing more I would take notice of, and that is the Evidence of *Bertram*, which we do not produce as a direct Evidence againſt the Priſoner at the Bar, but as a confirmation of what was ſworn by *Blair*. And it does ſhew that the matter, ſworn by *Blair*, was not of late deviſed out of malice, or otherwiſe, to deſtroy the Priſoner; for that *Blair* acquainted *Bertram* with, and diſcourſed him about the principal matters of fact, that are now ſworn at leaſt 2 years ago; and beſides his Evidence and the Evidence of *Blair* concur in this particular, that he was to be Lieutenant in *Blair*'s Troop.

My Lord, ſuch a concurrence of Evidence and other Circumſtances in this matter, greatly increaſe the weight of the proof againſt the Priſoner, eſpecially when there is nothing material alledged by him in his defence, and therefore I ſhall trouble your Lordſhip no further.

*L. C. J. Holt.* Look ye Gentlemen of the Jury, Sir *John Friend*, the Priſoner at the Bar, is Indicted for High Treaſon. The Treaſon that is mentioned in the Indictment is, Conſpiring, Compaſſing, and Imagining the Death and Deſtruction of the King. To prove the Conſpiracy and deſign of the Kings death, there are two principal Overt Acts that are mainly inſiſted upon. The one is the conſulting and agreeing with diverſe others to ſend Mr. *Charnock* into *France*, to King *James*, to deſire him to perſwade the *French* King to ſend over forces here to aſſiſt them; who were to furniſh other forces for the raiſing of a War within this Kingdom, in order to Depoſe the King; and accordingly Mr. *Charnock* was ſent upon that deſign. The other Overt Act is the Priſoners having a Commiſſion from the late King, and preparing and directing men to be levied, and to be ready to be in a Regiment, of which Sir *John Friend* was by that Commiſſion to be Collonel, and this was alſo to aſſiſt in the Reſtitution of King *James*, and in order thereunto in the Depoſing and expulſion of King *William*.

Theſe, Gentlemen, I tell you are the two Overt Acts that are principally inſiſted upon; and to prove Sir *John Friend* Guilty of theſe there are two Witneſſes that have been produced, the one is Captain *Porter*, who ſpeaks to the firſt, the other is Captain *Blair*, who ſpeaks to the ſecond. Captain

Captain *Porter* tells you, that the latter end of *May*, or the beginning of *June* laſt, that he and Sir *John Friend*, and others that he mentioned, were at the *Kings-head Tavern* in *Leadenhall-ſtreet*, and there they entered into a diſcourſe about the Returning of the late K. *James*; and they did conſider among themſelves which was the moſt effectual way, and what were the moſt probable means to have him Reſtored: and thereupon it was agreed among them, that they would ſend a Meſſenger into *France* to him, to deſire him that he would ſollicit the *French* King to furniſh him with 10000 men, to be ſent into *England*, 8000 Foot, 1000 Horſe, and 1000 Dragoons; and they did agree, that when theſe forces, were ſent, conſiſting of this number of men, then they would be ready to meet and joyn them with 2000 Horſe, every one of them was to furniſh his quota; to which Sir *John Friend* did expreſsly agree. The Meſſenger that they agreed to ſend was with them in company, and heard the Conſult, which was Mr. *Charnock*, who was lately Tryed and ſince Executed.

This being at that time determined, Mr. *Charnock* intended to go upon the execution of that deſign, and made ready for his Journey: but before he went, he had a deſire to meet with the company again, and have a further diſcourſe upon this matter, to ſee whether they did perſevere in the reſolution they had ſo taken. There was another meeting about a week or a fortnight after, which was at Mr. *Montjoy's*, a Tavern in *St. James's-ſtreet*, where met Sir *John Friend*, Captain *Porter*, and divers others of the Company that were before at the *Kings Head*. And there they entered into a debate of the matter again; the queſtion there was whether Mr. *Charnock* ſhould be ſent into *France*, as it was formerly agreed, and there it was again determined he ſhould go, to which he agreed, and Captain *Porter* ſays that he did go about 2 or 3 days after.

Mr. *Porter* tells you further, that about the time that Mr. *Charnock* came back, Mr. *Porter* was in Priſon, and he did not ſee him upon his firſt return, but afterwards he met and ſpoke with him, and askt him what was the effect of his Negotiation, and Mr. *Charnock* told him, that he had done as he was directed; that he had been with King *James*, and he had ſpoke to the *French* King, but the anſwer returned was this, that the *French* King had occaſion for his Forces that year to be otherwiſe imployed, and therefore he could not furniſh ſuch a number of men that year; and Mr. *Porter* askt him whether he had been with the reſt of the Gentlemen and acquainted them therewith, and he ſaid he had. This is the ſubſtance of Mr. *Porter's* Evidence; whereby you may perceive what the meetings were for, what reſolutions were there taken, and what was the iſſue and effect of them.

The next Witneſs is Captain *Blair*, and his Evidence goes to the other part, that is, to Sir *John Friend's* having a Commiſſion from the late King *James*, and engaging him and others to be in his Regiment, whereof Sir *John* was to be Collonel, and the providing of Officers. And for that the Evidence ſtands thus.

Captain *Blair* tell ye, that about two or three years ago, he was with Sir *John Friend* at his Lodgings in *Surrey-ſtreet*, and there he did produce a Commiſſion that he had from King *James* to be Collonel of a Regiment of Horſe; he was to raiſe it himſelf, and was to appoint, and provide what Officers he thougt fit. He ſays he read the Commiſſion and it was ſigned at the top *James Rex*, and counterſigned at the bottom *Melfort*; this he is poſitive in, and further, that Sir *John Friend* did promiſe that he ſhould be Lieutenant Collonel of this Regiment, and alſo deſired that Captain *Blair* would get as many men as he could, and that there were other Officers that were appointed in that Regiment, and particularly one *Fiſher* was brought to Sir *John Friend* by Captain *Blair*, to be his firſt Captain, and one Collonel *Slater* who was much in favour with Sir *John Friend*, was to have been another Lieutenant Collonel; for ſaid Sir *John Friend*, I have a mind to him to be my Lieutenant Collonel, and tho you are ſo too yet it is no matter, if we have two in this Regiment, at which Captain *Blair* took very great offence, and expreſt as much to Sir *John Friend*, whereupon Sir *John Friend* told him, it ſhould not be ſo, but ſaid he would make another Proviſion for Mr. *Slater*; that he ſhould be a Captain of an Independant Troop, that ſhall be compoſed of Non-ſwearing Parſons, and that ſhall ſatisfy him.

And

And Sir *John Freind* did intruſt Capt. *Blair* with the providing of Men and managing of them. And Capt. *Blair* tells you, he was at a great deal of charge, and laid out diverſe Summs to careſs them, and keep them together, and wanting Money to proceed in that Affair, he came to Sir *J. Freind*, and made great Complaints, that he wanted Money to carry on the Deſign, by obliging the Men to keep together, and herefore preſſed to Sir *John Freind* to furniſh him with ſome Money; ſays Sir *John*, there is 100 *l.* due to me, becauſe I laid down 100 *l.* to further the Eſcape of Coll. *Parker*, and *Piggot* has received it, and had Directions to pay it me, but I cannot yet get it. You ſhall have 20 *l.* out of that 100 *l.* if you can get it. Well, but how is that 20 *l.* to be had? It ſeems there was one *Harriſon* or *Johnſon* a Prieſt, who had ſome Intereſt in this *Piggot*, and he was to help him to it; and thereupon the 20 *l.* was actually paid the latter end of *June* or the beginning of *July* laſt. This 20 *l.* he ſwears he did receive upon that account, by the Direction of Sir *John Freind*, to be ſo imploy'd as you have been told.

Then Captain *Blair* had occaſion for more Money, which was ſometime after *Michaelmas* laſt, which was to be employ'd as the former was: and he was very importunate to obtain it of Sir *John Freind*; at length he did obtain it, as he tells you, and the manner how. He produces a Letter under Sir *John Freind*'s own hand, which ſeems to be an Anſwer to a Letter that Capt. *Blair* had ſent to him before, he thinks it to be his own hand, for he is acquainted with his hand-writing. But that is not all to prove it his hand, for the Contents of the Letter are remarkable which are about the Payment of Money to *Blair*; the Letter bears date of a Tueſday Morning, and is directed to Capt. *Blair*, and a Porter brought it, as he thinks, to his Houſe; and thereby it was appointed they ſhould meet on Thurſday next at *Jonathan*'s Coffee-Houſe about the hour of Twelve; and accordingly Capt. *Blair* came to *Jonathan*'s Coffee-Houſe, where he accordingly met with Sir *John Freind*, and there was *Harriſon* the Prieſt and *Piggot*, and there he does receive a Summ of Money upon the ſame Account: ſo that now the proof of this Letter does not depend barely upon the knowledge of the hand, but the Contents of it, and the ſubſequent meeting at the time and place mentioned in the Letter is a great Evidence that it was Sir *John Freind*'s hand-writing, and more Money is prov'd to be actually paid in the preſence of Sir *John Freind*, which is the moſt material part of the Evidence. And you are told further, that that as Sir *John Freind* and Capt. *Blair* were going together in a Coach from *Jonathan*'s Coffee-Houſe to St. *Martins le Grand*, there was a Diſcourſe between them; and Sir *John Freind* ſaid, for his part he would not ſtir till ſuch time as the *Toulon* Fleet was come about, and joyned with the *Breſt* Fleet. That he did think he was in danger of being apprehended when it come about, and therefore Capt. *Blair* was to ſculk till then, as he himſelf told him he would do, but yet he ſhould get what Men he could. And this is a great Argument of his being concerned in the intended Invaſion, and that his making Preparation for his Regiment, had relation to the *French* Invaſion, which was expected.

It ſeems two years ago, there being a great Intimacy between *Blair* and Sir *John Freind*, as appears by all the Evidence, *Blair* was acquainted with this Deſign. For you are told of the Letter that was writ by him to King *James*, which he ſhew'd to Capt. *Blair*, and it was concerning his Regiment; he ſays, that Sir *John Freind* own'd he writ that Letter himſelf, that *Blair* did read the Letter, and finding it ſo well penn'd, he ſaid, that he thought *Ferguſon* had a hand in it, at which Sir *John Freind* was angry; but *Blair* ſays, the Letter was concerning the Regiment of which Sir *John Freind* was Coll.

Then Gentlemen, you have *Bertram* called to prove, that *Blair* did tell him, that he was to be his Lieutenant Coll. which was long before there was any Thoughts of any Diſcovery of this intended Invaſion, and before the Diſcovery of the Plot of Aſſaſſination, which Sir *John Freind* did own he had ſome knowlegde of, but he diſliked it, and ſaid it would ruine King *James*'s Affairs. So that Gentlemen, I think this is the Summ and Subſtance of the Evidence that has given upon this Occaſion againſt Sir *John Freind*, to induce you to believe him been to be guilty of this Crime with which he now ſtands charged.

But now you are to conſider what Sir *John Freind* ſays on behalf of himſelf. In the firſt place, he makes an Objection againſt the Credit of all theſe Witneſſes, that they are not to be believed, becauſe, ſays he, they are known or reputed to be Roman Catholicks and Papiſts, and their Conſciences, and their Oaths are large, eſpecially when thereby they think they can do an Injury

to any Proteſtant; and therefore they are not to be allowed as Witneſſes, at leaſt their Credit is not ſufficient to induce a Jury to believe them. At firſt indeed he urged there was a Statute and a Law that did diſable them from being Witneſſes; but I muſt tell you there is no ſuch Statute, nor indeed is their being Papiſts any Diminution at all to the Credit of their Teſtimony; for Papiſts are legal Witneſſes, and tho' there are ſevere Laws to puniſh them for their Non-Conformity to the Church of *England*, and for other their Popiſh Practices; yet I know of no Law that renders them infamous, or incapable of being Witneſſes. For you are to conſider, Papiſts are Chriſtians, and ſwear by the ſame Evangeliſts that Proteſtants doe; and as for that ſuppoſition, that they look upon Proteſtants as Hereticks, and can have a Diſpenſation for any Oaths that they take againſt them; you are to conſider, as it has been very well obſerved by the King's Councel, that they are never like to obtain any Diſpenſation or Pardon, if they ſhould forſwear themſelves to defeat the Deſigns of the Popiſh Party; and therefore it is a very Inconſiderable Objection, and in this caſe hath no weight.

But then he does inſiſt upon it, that Capt. *Blair* is not to be believed, and there are two Objections he makes againſt him. Firſt, That he did deny that he knew any thing of the Plot. For *Blair* being upon this occaſion brought Priſoner to the *Gate-Houſe*, and afterwards upon a Diſcourſe of ſome News in the *Flying Poſt*, wherein it was mention'd, that Capt. *Blair* had confeſt all, and made a full Diſcovery, that thereupon he ſhould ſay, He was innocent of the Plot, and knew nothing of it. You Gentlemen are to conſider the Weight of this Objection. Firſt, Suppoſe he had ſaid ſo, it might be, he was not willing (as he was not oblig'd) to own it, and would not confeſs it at that time, and to theſe Perſons. It was not his Intereſt and Prudence to be too open; and therefore it does not follow, that becauſe a Man would not truſt others with his Confeſſion, but deny'd his knowledge of a Plot when there was no occaſion for him to own it, that now he ſwears it poſitively, therefore he ſhould ſwear falſly.

But ſecondly, Capt. *Blair* who was called for the Vindication of himſelf, and his Teſtimony has upon his Oath declared to you, that he did not ſay he knew not any thing of the Plot, but did deny any Concern in, or Knowledge of the Aſſaſſination. Now this buſineſs, for which Sir *John Freind* is tried, is not for being a Party in the deſign'd Aſſaſſination, but of a Deſign with force to Depoſe the King, and reſtore King *James*.

Then as to the other matter that was upon Friday Night laſt; *Courtney* the Witneſs ſays, That he came to Capt. *Blair*'s Chamber, and took notice of his being to be a Witneſs at *Huck*'s Hall the next day, and ſaid I pray God direct you; and he ſays his Wife, then preſent, ſaid it was againſt his Conſcience, and he ſeem'd to be in very great trouble about it, and owned as much. But now Capt. *Blair* himſelf, being examined upon his Oath, does deny poſitively that either he or ſhe ſaid any ſuch thing as that it was againſt his Conſcience: he ſays, that *Courtney* got in to him on purpoſe to ſurprize him, and he was aware of it, anp his Deſign being to keep himſelf free from all Company, he gave directions to the Keeper (as the Keeper himſelf ſwears) to let no body come to him but his Wife; and Mr. *Courtney* intruded himſelf upon him.

Beſides, Gentlemen, you are to conſider the Probability of that which Mr. *Courtney* ſaith: when a man is to be a Witneſs the next day upon Bill of Indictment before a Grand Jury, that he ſhould be ſo indiſcreet, as to tell any Body he was going to ſwear againſt his Conſcience, is ſtrange and very unaccountable. You are therefore to conſider of this whole Matter, what Evidence Capt. *Blair* has given, and the Import of it, and the Weight and Credibility of that Evidence which is given againſt him.

Then Sir *John Freind* inſiſts upon another Matter; ſays he, I am a Proteſtant, and it is not likely, that I that am a Proteſtant ſhould conſpire with Papiſts againſt Proteſtants; and for that he has called eight Witneſſes, who tell you they have known him, ſome twenty Years, ſome more, others ten, and that they have frequently converſt with him, and never knew that he was ever Popiſhly affected, and they have been frequently in his Company ſince the Revolution, and they never knew that at any time he reflected upon the Government; nay, I think one ſaid, that once he did reprove a Man for talking undecently of the Government; that he uſed conſtantly to go to Church 4 or 5 Years ago (tho' there is no account of that ſince.) And particularly there is one Mr. *Luſton* that was his Chaplain, and he tells you he was in his Houſe; and there he read

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the Common-Prayer in the Family ſince the Revolution, and pray'd for the King and the late Queen, and Sir *John Freind* was often preſent at the Prayers; and particularly when he prayed for the preſent King, and the late Queen; but he ſays he himſelf has been gone thence Five years, and has been little Converſant with him ſince.

There is another Witneſs tells you, he has been in Sir *John Freind*'s Company divers times, whom he believes to be a Proteſtant of the Church of *England*, and hath had Diſcourſe concerning the preſent Government; and that Sir *John Freind* ſaid, that tho' he could not take the Oaths, and thereby Conform to the Government, yet he was reſolved to live quietly under it; and would not ingage in any manner of Plot; for he that catch'd him in the Corn, ſhould put him in the Pound.

This is the Summ and Subſtance of the Evidence on both ſides; and you, Gentlemen, are to conſider the Weight of this part of his Defence too; whether it be a ſufficient Anſwer to the Evidence given againſt him, and has Weight enough to out-ballance what the Witneſſes for the King have Sworn? For altho' he was a Proteſtant, yet it is plain he had no great Liking to the Government; and therefore would not take the Oaths; and tho' he was preſent at the Common-Prayer, when the King and Queen were prayed for, yet whether he joyned in thoſe Prayers, is very uncertain. There are a great many, who are not very well affected to the Preſent Government, that come to Church, and are preſent at the Publick Prayers; but it may be a very great Doubt whether they joyn in their Prayers for the Preſent Government or no; his Conſcience, that ſcruples the taking the Oaths, might ſcruple that too. But whether Sir *John Freind*'s being a Proteſtant, and his Declaring he would never be in a Plot, be a ſufficient Proof, that therefore he never was in one; and that his former Diſcourſe of that kind ſhould Diſcredit theſe Witneſſes, that have Sworn he has been ſo much concerned in a Plot, you are to conſider; and comparing the Weight, and Nature of the Evidence on the one ſide, and the other, it muſt be left to your Determination.

Then there is another thing that he did inſiſt upon, and that is matter of Law. The Statute of the 25° *Ed.* 3. was read, which is the great Statute about Treaſons; and that does contain divers Species of Treaſon, and Declares what ſhall be Treaſon. One Treaſon is the Compaſſing, and Imagining the Death of the King; another is the Levying of War: Now, ſays he, here is no War actually Levied; and a bare Conſpiracy or Deſign to Levy War, does not come within this Law againſt Treaſon. Now for that, I muſt tell you, if there be onely a Conſpiracy to Levy War, it is not Treaſon. But if the Deſign and Conſpiracy be either to Kill the King, or to Depoſe him, or Impriſon, or put any Force or Reſtraint upon him, and the Way and Method of effecting of theſe, is by Levying a War, there the Conſultation, and the Conſpiracy to Levy a War for that purpoſe, is High-Treaſon, tho' no War be Levied for ſuch Conſultation and Conſpiracy, is an Overt-Act, proving the Compaſſing the Death of the King, which is the firſt Treaſon, mentioned in the Statute of the 25th of *Ed.* 3d. For the Words of that Statute are; *That if any Man ſhall Compaſs, or Imagine the Death of the King.* Now becauſe a Man Deſigns the Death, Depoſition, or Deſtruction of the King, and to that Deſign, Agrees and Conſults to Levy War, that this ſhould not be High-Treaſon, if a War be not actually Levied, is very ſtrange Doctrine, and the Contrary has always been held to be Law. There may a War be Levied without any Deſign upon the King's Perſon, or Endangering of it; which if actually Levied, is High-Treaſon; but a bare Deſigning to Levy War, without more, will not be Treaſon. As for Example; * If perſons do Aſſemble themſelves, and Act with Force in oppoſition to ſome Law which they think inconvenient, and hope thereby to get it repealed, this is Levying a War and Treaſon, tho' Purpoſing and Deſigning it is not ſo; ſo when they endeavour in great Numbers with Force to make ſome Reformation of their own heads, without purſuing the Methods of the Law, that is a Levying of War, and Treaſon, but the Purpoſing and Deſigning it is not ſo.

* Riſing with Force, to pull down all Incloſures, to expell Strangers, to pull down Bawdy-Houſes, is Levying of War, and Treaſon; but a bare Purpoſing and Deſigning to raiſe ſuch a Force for ſuch a Purpoſe, is not Treaſon.

But if there be, as I told you, a Purpoſe and Deſign to Deſtroy the King, and to Depoſe him from his Throne, or to Reſtrain him, or have any Power over him, which is propoſed or deſigned to be effected by War that is to be Levied, ſuch a Conſpiracy and Conſultation to Levy War for the bringing this to paſs, is an Overt-

Overt-Act of High-Treaſon. So that, Gentlemen, as to that Objection, that he makes in Point of Law, it is of no force, if there be Evidence ſufficient to convince you, that he did Conſpire to Levy War for ſuch an end.

Gentlemen, the Evidence you have heard what it is, you may conſider the Weight of it, and the Circumſtances that do attend it; and likewiſe the Anſwers that have been given by the Priſoner to Invalidate that Evidence, and to prove the Improbability of what they have teſtified againſt him. You have heard, I ſay, the Evidence on the one ſide, and the other; If you are not ſatisfied that what the Witneſſes have Sworn is true, that Sir *John Freind* did Ingage in ſuch a Deſign for ſuch a purpoſe, then you are to acquit him; but on the other ſide, if you believe that Sir *John Freind* is Guilty of what the Witneſſes have Depoſed againſt him, then you are to find him Guilty.

*Juryman.* My Lord, we deſire we may have that Letter with us that was produced here.

*L. C. J. Holt.* No, no, you cannot have it by Law.

*Juryman.* May it not be left with the Foreman, my Lord?

*L. C. J. Holt.* No, but you may look upon it in Court before you go away if you will.

*Then the Letter was handed to the Jury, and one of them handed it to the Priſoner.*

*L. C. J. Holt.* Why do you do ſo? you ſhould not give the Priſoner the Letter.

*Juryman.* It was done to ſee whether it was his hand: and we deſire, if there be any body here that knows his hand-writing, or that ſaw him write it, may be produced.

*L. C. J.* Why? Did not he own the Letter to the Witneſs afterwards? It was Sworn to you he did; and that he met according to the Appointment in the Letter, and that Money was paid.

*Then the Jury withdrew to Conſider of their Verdict, and an Officer was Sworn to keep them, according to Law, till agreed; and about a quarter of an Hour afterwards they Returned into Court, and the Priſoner was brought to the Bar.*

*Cl. of Arr.* Gentlemen, Anſwer to your Names, *Thomas Clark* ——

*Mr. Clark.* Here. (*And ſo did all the reſt of the Twelve.*)

*Cl. of Arr.* Gentlemen, are you agreed of your Verdict?

*Jury.* Yes.

*Cl. of Arr.* Who ſhall ſay for you?

*Jury.* Our Foreman.

*Cl. of Arr.* Sir *John Freind*, hold up thy Hand, (*which he did*) Look upon the Priſoner; How ſay ye, is he Guilty of the High-Treaſon whereof he ſtands Indicted, or Not Guilty?

*Foreman.* Guilty, my Lord.

*Cl. of Arr.* What Goods or Chattels, Lands or Tenements, had he at the time of the High-Treaſon committed, or at any time ſince?

*Foreman.* None to our Knowledge.

*Jaylor.* Look to him, he is found Guilty of High-Treaſon.

*Cl. of Arr.* Then hearken to your Verdict as the Court has Recorded it. You ſay that Sir *John Freind* is Guilty of the High-Treaſon whereof he ſtands Indicted, but that he had no Goods, nor Chattels, Lands, nor Tenements, at the time of the High-Treaſon committed, or at any time ſince, to your Knowledge.

*L. C. J. Holt.* Diſcharge the Jury.

*Cl. of Arr.* Gentlemen, the Court Diſcharges you, and thanks you for your Service.

*L. C. J.* Then we had beſt to Adjourn the Court till to Morrow Morning.

*Cl. of Arr.* Cryer, make Proclamation.

*Cryer.* O Yes, O yes, O yes: All manner of perſons, that have any thing more to do, at this General Seſſions of the Peace, Seſſions of *Oyer* and *Terminer*, holden for the City of *London*; and Goal-Delivery of *Newgate*, holden for the City of *London*, and County of *Middleſex*, may depart hence for this time, and give their Attendanc here again, to morrow Morning at Seven of the Clock, and *God ſave the King.*

*Then the Priſoner was Carried back to* Newgate, *and was brought the next Day to the Bar to offer what he had to ſay for Stay of Judgment; and afterwards Received Sentence of Death, as a Traytor, together with Sir* William Perkyns, *who was that day Tryed, Convicted, and Condemned, and whoſe Tryal will be Publiſhed with all poſſible ſpeed.*

FINIS.

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